

## HOUSE OF REPRESENTATIVES.

WEDNESDAY, February 7, 1917.

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

O Thou Eternal One, to whom we are indebted for life and all its attendant blessings, help us to realize how great is the responsibility resting upon us as free moral agents in the use of the faculties bestowed upon us. If we are at all self-centered, touched by the poison of vanity, remove that and give us wisdom, that we may apply our knowledge unto righteousness, truth, and justice; and in all humility freely accord unto others what we may reasonably claim for ourselves in the spirit of the Lord Jesus Christ. Amen.

The Journal of the proceedings of yesterday was read and approved.

## AVIATION FIELD.

Mr. CANNON. Mr. Speaker, I ask unanimous consent to insert in the Record a letter and telegram from the Chamber of Commerce of Casey, Ill., which is in the center of the Illinois oil field. I shall refer the letter to the War Department, but I wish to insert the letter and the telegram in the Record.

The SPEAKER. The gentleman from Illinois asks unanimous consent to extend his remarks in the Record. Is there objection?

There was no objection.

## CIVIC TRAINING IN THE BUREAU OF EDUCATION.

Mr. NOLAN. Mr. Speaker, I ask unanimous consent to print in the Record an article having reference to a bill which I introduced (H. R. 8485) for civic training in the Bureau of Education.

The SPEAKER. The gentleman from California asks unanimous consent to extend his remarks in the Record. Is there objection?

There was no objection.

## CONFERENCE REPORT (NO. 1443).

Mr. SHERLEY. Mr. Speaker, I present a conference report on the fortifications bill, H. R. 20453, and I ask unanimous consent that the same may be considered without being printed under the rule.

The SPEAKER. The gentleman from Kentucky presents a conference report on the fortifications appropriation bill and asks unanimous consent that it be considered without being printed under the rule. Is there objection?

Mr. MANN. Reserving the right to object, let the report be read.

The SPEAKER. The Clerk will read the report.

The report was read, as follows:

## CONFERENCE REPORT (NO. 1443).

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 20453) making appropriations for fortifications and other works of defense, for the armament thereof, for the procurement of heavy ordnance for trial and service, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendment numbered 3.

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following: "or, where such matériel is not or has not been manufactured by the Government, at a price in excess of 25 per cent more than the estimated cost of manufacture by the Government: *Provided*, That whenever in the opinion of the President the situation is such as to justify such action he may waive the limitations contained in this section"; and the Senate agree to the same.

SWAGAR SHERLEY,

GEORGE RAUCH,

FREDERICK H. GILLET,

*Managers on the part of the House.*

N. P. BRYAN,

OSCAR W. UNDERWOOD,

*Managers on the part of the Senate.*

Mr. SHERLEY. Mr. Speaker, the Senate amended the bill in only three particulars. The first amendment was to authorize the Ordnance Department to enter into a five-year lease for cer-

tain space for housing its drafting force, and to that the House agreed.

The second amendment was one changing the language of a provision in the bill as to the price that should be paid for matériel purchased from private manufacturers. Under the House provision this matériel could not be purchased at a price in excess of 25 per cent of the arsenal prices, unless in the opinion of the President an emergency exists affecting the general welfare of the United States. The House agreed to the amendment of the Senate with an amendment changing the proviso so as to permit the waiving of the requirement whenever in the judgment of the President it should be done. It was believed that the President ought not to be required to certify that an emergency affecting the general welfare exists, but that his freedom should be greater.

The third amendment was by the Senate, undertaking to modify the requirement that the arsenal should be worked at a maximum economic capacity and providing that it should only be worked at one full shift a day. The Senate receded from its amendment.

The SPEAKER. Is there objection to the consideration of the conference report without being printed under the rule?

There was no objection.

The conference report was agreed to.

## BRIDGE BILLS.

Mr. ADAMSON. Mr. Speaker, I ask unanimous consent to set a hearing for the consideration of some bridge bills. There are seven or eight bridge bills that have not been reached on unanimous-consent days, and the friends of those bills are pressing the Speaker for recognition. I ask unanimous consent that they be considered to-morrow morning after the reading of the Journal. It will not take 10 minutes to dispose of them.

The SPEAKER. The gentleman from Georgia asks unanimous consent that seven or eight bridge bills may be considered to-morrow morning after the reading of the Journal. Is there objection?

Mr. MANN. I suggest to the gentleman from Georgia that he make his request that unobjected bridge bills be considered, so that we can not possibly get into a position where we will have a long debate.

Mr. ADAMSON. Of course, Mr. Speaker, I understood and intended to mean that it should be only those bridge bills which are unobjected to.

The SPEAKER. The gentleman modifies his request and makes it apply to bills unobjected to. Is there objection?

Mr. MOORE of Pennsylvania. Reserving the right to object, I would like to ask the gentleman from Georgia if any of these bills are for a bridge across the Hudson River?

Mr. ADAMSON. I think one of them is.

Mr. MOORE of Pennsylvania. I should have to object.

The SPEAKER. That bill would not be taken up under this request.

Mr. ADAMSON. Mr. Speaker, I suggest that when each bill is called any Member may object.

The SPEAKER. Is there objection to the request of the gentleman from Georgia? [After a pause.] The Chair hears none, and it is so ordered.

## EMPLOYMENT OF WOMEN IN THE CIVIL SERVICE.

Mr. KEATING. Mr. Speaker, I move to discharge the Committee on Reform in the Civil Service from further consideration of House resolution 475, which I send to the desk and ask to have read.

The Clerk read as follows:

## House resolution 475.

*Resolved*, That the President of the United States furnish the House with the following information:

In making appointments, transfers, promotions, demotions, and removals in clerical and other positions in the various executive branches of the Federal civil service, to what extent is sex a factor in the selections and decisions?

In what branches of the service, if any, during the year ending December 31, 1916, did the appointing officials specify sex when asking for certifications? Which sex was specified and in respect to what positions was this specification made? In what branches and what instances was sex not specified?

Are there any positions in any branch of the service to which women who have passed the prescribed examinations would not be appointed or promoted? If so, what branches and what positions?

Are there any branches of the service in which officials fix limitations as to the salary grades or positions to which women may be promoted? If so, what branches and what positions?

Are any civil-service examinations open to men only? If so, what and how many examinations during the year ending December 31, 1916, were so restricted? What, if any, examinations were open to women only? What, and how many, examinations were open to both men and women?

The SPEAKER. The question is on the motion of the gentleman from Colorado to discharge the Committee on Reform in the Civil Service from further consideration of this resolution.

Mr. STAFFORD. Mr. Speaker, will the gentleman yield?

Mr. KEATING. Yes.

Mr. STAFFORD. May I inquire why the gentleman seeks this information from the President and not from the Civil Service Commission, which is the body that might have the information?

Mr. KEATING. First of all, the President is the head of all the executive departments, as the gentleman knows. In the next place, the Civil Service Commission would not be prepared to answer all of the questions propounded in the resolution.

Mr. MANN. And in the third place, it would not be a privileged resolution if it asked the Civil Service Commission for the information.

Mr. KEATING. That is true. It has been so ruled.

Mr. STAFFORD. It might not be a privileged resolution, but the question that is uppermost in my mind is whether we ought to cumber the President with a request to obtain information that could be obtained from the Civil Service Commission.

Mr. KEATING. I would suggest to the gentleman that the President will probably refer the matter to the head of the department.

Mr. BURNETT. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BURNETT. I make the inquiry with a thought to objecting. Is this a privileged resolution on Calendar Wednesday?

The SPEAKER. The Chair thinks that the gentleman raises the point too late. The question is on the motion of the gentleman from Colorado to discharge the Committee on Reform in the Civil Service from further consideration of the resolution.

The motion was agreed to.

The SPEAKER. The question now is on agreeing to the resolution.

The question was taken; and on a division (demanded by Mr. STAFFORD) there were—ayes 52, noes 45.

So the resolution was agreed to.

Mr. FITZGERALD. Mr. Speaker, I ask unanimous consent that the resolution may be modified, so that instead of reading—

*Resolved, That the President of the United States furnish the House with the following information—*

*It will read—*

*Resolved, That the President of the United States be requested to furnish the House with the following information.*

The SPEAKER. Without objection, the resolution will be so modified.

There was no objection.

On motion of Mr. KEATING, a motion to reconsider the vote by which the resolution was agreed to was laid on the table.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Waldorf, its enrolling clerk, announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 20453) making appropriations for fortifications and other works of defense, for the armament thereof, for the procurement of heavy ordnance for trial and service, and for other purposes.

The message also announced that the Senate had passed without amendment the bill (H. R. 15314) to punish persons who make threats against the President of the United States.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House of Representatives was requested:

S. 7380. An act for the construction of Coast Guard cutters;

S. 7381. An act to provide adequate subsistence for the warrant officers and enlisted men of the Coast Guard;

S. 4716. An act granting pensions to certain members of the former Life-Saving Service;

S. 7320. An act adding certain lands in Wyoming to the Ashley and Wasatch National Forests;

S. 6854. An act to repeal the last proviso of section 4 of an act to establish the Rocky Mountain National Park in the State of Colorado, and for other purposes, approved January 26, 1915;

S. 747. An act for the relief of Wilbur F. Lawton;

S. 7757. An act authorizing a further extension of time to purchasers of land in the former Cheyenne and Arapahoe Indian Reservation, Okla., within which to make payment;

S. 6251. An act for the relief of John F. Kelly;

S. 7833. An act authorizing the Chippewa Indians in the State of Minnesota to submit claims to the Court of Claims;

S. 5768. An act for the relief of Frank Carpenter;

S. 3507. An act for the relief of Elizabeth Marsh Watkins;

S. 2749. An act for the relief of George L. Thomas;

S. 7758. An act conferring jurisdiction upon the Court of Claims to hear, consider, and determine certain claims of the Cherokee Nation against the United States;

S. 6654. An act to validate a patent to certain lands heretofore issued to the State of Florida; to allow the said State to claim certain other lands, and for other purposes;

S. 1174. An act granting to the State of Iowa all the right, title, and interest of the United States in and to the land within the meander lines, as originally surveyed, of the lakes within said State;

S. 5362. An act to authorize the Secretary of the Interior to issue patents for certain lands in the State of Utah to Cyrena E. Young;

S. 6943. An act for the relief of Frederick Tessman;

S. 7894. An act to amend the act entitled "An act to amend sections 2275 and 2276 of the Revised Statutes of the United States providing for the selection of lands for educational purposes in lieu of those appropriated," and to authorize an exchange of lands between the United States and the States of Montana and Wyoming;

S. 7713. An act granting to the city and county of San Francisco, State of California, a right of way for a storm-water relief sewer through a portion of the Presidio of San Francisco Military Reservation;

S. 7433. An act for the relief of Winfield S. Solomon;

S. 7598. An act for the relief of John H. Kidd;

S. 6430. An act directing the reexamination of the accounts of the late Peter G. S. Ten Broeck; and

S. 6595. An act to reimburse William Blair for losses and damages sustained by him by the negligent dipping of his cattle by the Bureau of Animal Industry, Department of Agriculture.

The message also announced that the Senate had passed without amendment bills of the following titles:

H. R. 11685. An act for the relief of Ivy L. Merrill;

H. R. 7763. An act for the relief of Stephen J. Simpson;

H. R. 6732. An act for the relief of Joseph A. Jennings;

H. R. 11288. An act for the relief of S. S. Yoder;

H. R. 13831. An act to amend section 4464 of the Revised Statutes of the United States, relating to number of passengers to be stated in certificates of inspection of passenger vessels, and section 4465 of the Revised Statutes of the United States, prescribing penalty for carrying excessive number of passengers on passenger vessels, and section 4466 of the Revised Statutes of the United States, relating to special permits for excursions on passenger steamers; and

H. R. 1600. An act for the relief of S. L. Burgard.

#### SENATE BILL REFERRED.

Under clause 2, Rule XXIV, Senate bill of the following title was taken from the Speaker's table and referred to its appropriate committee, as indicated below:

S. 5395. An act to repeal sections 2588, 2589, and 2590 of the Revised Statutes of the United States; to the Committee on Merchant Marine and Fisheries.

#### EXTENSION OF REMARKS.

Mr. MILLER of Delaware. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD in connection with some resolutions adopted by the General Assembly of Delaware.

The SPEAKER. The gentleman from Delaware asks unanimous consent to extend his remarks in the RECORD in the manner indicated. Is there objection?

Mr. MANN. Mr. Speaker, reserving the right to object, I think it fair to call to the attention of Members of Congress a bill that was passed last evening by the Senate in reference to printing in the RECORD. It may be desirable to have it considered at this session of Congress. I think Members ought to look it up. My impression is that the bill stops all of this leave to print in the RECORD except extension of one's own remarks. I do not object to this.

The SPEAKER. Is there objection to the request of the gentleman from Delaware? [After a pause.] The Chair hears none.

#### CALENDAR WEDNESDAY—DIVERSION OF WATER OF THE NIAGARA RIVER.

The SPEAKER. This is Calendar Wednesday, and the unfinished business is the Niagara Falls hydroelectric power bill (H. R. 20047). The House will automatically resolve itself into the Committee of the Whole House on the state of the Union.

Mr. HUDDLESTON. Mr. Speaker, before that is done I make the point of order that there is no quorum present.

The SPEAKER. The gentleman from Alabama makes the point of order that there is no quorum present. The Chair will count. [After counting.] One hundred and sixty-five Members present, not a quorum.

Mr. KITCHIN. Mr. Speaker, I move a call of the House.

The motion was agreed to.



The SPEAKER. The Doorkeeper will close the doors, the Sergeant at Arms will notify the absentees, and the Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

Anthony	Edwards	Jones	Randall
Barchfeld	Estopinal	Kent	Riordan
Beakes	Farley	Key, Ohio	Rowland
Beales	Fitzgerald	Kreider	Rucker, Ga.
Benedict	Flynn	Lehlbach	Scott, Pa.
Bennet	Gandy	Lenroot	Scully
Campbell	Garrett	Lewis	Siegel
Cantrill	Graham	Lieb	Sparkman
Carew	Green, Iowa	Liebel	Steele, Iowa
Chandler, N. Y.	Gregg	Loft	Swift
Coady	Hart	McCracken	Tinkham
Costello	Hayes	McKellar	Van Dyke
Cullop	Heflin	Mooney	Vare
Davenport	Helm	Morin	Wason
Davis, Minn.	Henry	Nelson	Whaley
Driscoll	Hill	Patten	Wise
Dunn	Hinds	Porter	Woodyard
Dyer	Howell	Pou	
Edmonds	Johnson, S. Dak.	Price	

The SPEAKER. On this roll call 350 Members, a quorum, have answered to their names.

Mr. KITCHIN. Mr. Speaker, I move to dispense with further proceedings under the call.

The SPEAKER. The gentleman from North Carolina moves that further proceedings under the call be dispensed with.

The question was taken, and the motion was agreed to.

The SPEAKER. The Doorkeeper will unlock the doors.

#### CHANGE OF REFERENCE.

Mr. McLAUGHLIN. Mr. Speaker—

The SPEAKER. For what purpose does the gentleman rise?

Mr. McLAUGHLIN. To ask unanimous consent for a change of reference of a Senate bill.

The SPEAKER. What bill is it?

Mr. McLAUGHLIN. Senate bill 739, for the relief of James F. Cole. It is a bill to remove a charge of desertion, which was passed by the Senate, and when it came to the House it was referred to the Committee on the Public Lands. I wish to ask to have it referred to the Committee on Military Affairs.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

#### DIVERSION OF WATER OF THE NIAGARA RIVER.

The SPEAKER. The House automatically resolves itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 20047, and the gentleman from Missouri [Mr. ALEXANDER] will take the chair.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 20047, with Mr. ALEXANDER in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 20047, the title of which the Clerk will report.

The Clerk read as follows:

A bill (H. R. 20047) for the control and regulation of the waters of Niagara River above the Falls, and for other purposes.

The CHAIRMAN. The Clerk will report the pending amendment.

The Clerk read as follows:

Pending amendment by Mr. DEMPSEY: Page 2, line 2, strike out the word "revocable" before the word "permits," and, after the word "permits," insert the words "revocable for cause as hereinafter provided or for any national need or exigency."

Amendment offered to the amendment by Mr. SHERLEY: Amend the amendment by striking out all of the language of the amendment except that which strikes out the word "revocable," in page 2, line 2.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kentucky [Mr. SHERLEY].

Mr. DEMPSEY. Mr. Chairman, I desire to withdraw the amendment.

The CHAIRMAN. The gentleman from New York desires to withdraw the amendment.

Mr. HUDDLESTON. Mr. Chairman, I object.

Mr. MANN. It can only be done by unanimous consent.

The CHAIRMAN. Is there objection?

Mr. HUDDLESTON. Mr. Chairman, I object.

Mr. FLOOD. Mr. Chairman, I ask just a few moments to explain the reason why this amendment ought to be withdrawn or ought to be voted down.

The CHAIRMAN. The time on both amendments has been exhausted.

Mr. FLOOD. Mr. Chairman, I ask unanimous consent I may proceed just for a few minutes.

Mr. MANN. Mr. Chairman, is debate exhausted by order of the committee?

The CHAIRMAN. The Chair thinks not; that is his recollection. The gentleman from Virginia asks unanimous consent to proceed for five minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. FLOOD. Mr. Chairman, this amendment proposes to change this provision of the bill:

That the Secretary of War is hereby authorized to grant revocable permits for the diversion of water for power purposes from said Niagara River above the Falls.

The purpose of the amendment was to strike out the word "revocable" and authorize the Secretary of War to grant permits which were not revocable; thereby turning this immensely valuable water power over to the water-power companies for 50 years. There have never been any permits granted by the Secretary of War for the use of this water except revocable permits. This bill provides that they shall be revocable at will under the following conditions:

Provided further, Whenever it shall appear to the Secretary of War that the diversion of water herein authorized in connection with the amount of water diverted on the Canadian side of the river interferes with the navigable capacity of said river, or its proper volume as a boundary stream, or its sufficiency as a means of national defense, he may revoke any permit.

For these reasons the Secretary of War is authorized by this bill to revoke the permits at will and without assigning any cause and without notice to the permittee. Now, it is perfectly apparent to every Member of the House that if the Secretary of War could not revoke permits for these causes at will, that the Secretary of War would not grant any permits to take this water. There is an additional ground upon which the Secretary of War can revoke these permits.

Mr. SMITH of Minnesota. Will the gentleman yield?

Mr. FLOOD. I will yield.

Mr. SMITH of Minnesota. What is the connection between the word "revocable" in section 2 and section 4 which authorizes the Secretary of War to revoke these permits when certain conditions are not complied with?

Mr. FLOOD. That is for cause and that is because the permittee has violated this law or violated the regulations laid down by the Secretary of War for the use of this water.

Mr. SMITH of Minnesota. Is it the gentleman's understanding that section 2 is broader than section 4?

Mr. FLOOD. My understanding is if the permittee violates the law or violates the regulations of the Secretary of War which permits him to take this water, that he can be fined or imprisoned, or fined and imprisoned, and the Secretary of War may revoke his permit, and it is for cause stated in this law:

That if any permittee shall at any time fail or refuse, after receiving reasonable notice thereof, to comply with any of the provisions of this act or any lawful order or regulation made by the Secretary of War and the Chief of Engineers in accordance with the provisions of this act, the Secretary of War may, in addition to said penalties, revoke said permit, and thereupon all rights under said permit shall cease and determine.

That is a part of the punishment under this act, and the permittee has notice and he has an opportunity to defend himself against the charge of having violated the law or violated the regulations.

Mr. SMITH of Minnesota. Well, then, in section 2, line 2, the word "revocable" does not mean anything, does it?

Mr. FLOOD. Yes; it does.

Mr. SMITH of Minnesota. How much more does it mean than the language of section 4?

Mr. FLOOD. It means at the will of the Secretary of War, if he is satisfied himself that the navigability of the Niagara River is being affected by the diversion of this water, or it is being injured as a boundary line, or its capacity for national defense is being affected, he can revoke the permit or permits.

Mr. SMITH of Minnesota. If the Government wants to take it over, he can revoke it without regard to section 4 at all? That is, if the Government wants to use this power for its own purpose?

Mr. FLOOD. Not unless the Secretary of War is satisfied that one of these conditions has occurred.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SMITH of Minnesota. Mr. Chairman, I ask unanimous consent that the gentleman's time be extended five minutes.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. SMITH of Minnesota. Probably the gentleman does not understand the information I am trying to get. Section 4 is the section of the bill that provides that when certain provisions of the bill are violated the Secretary of War can do certain things by way of correction.

Mr. FLOOD. Section 4 imposes penalty on the permittee for violation of the law.

Mr. SMITH of Minnesota. Not necessarily a penalty, but he can require the company to comply with his orders.

Mr. FLOOD. As a penalty for the violation of this statute.

Mr. SMITH of Minnesota. That is one condition under which this permit can be revoked?

Mr. FLOOD. That is for cause.

Mr. SMITH of Minnesota. Specified in here?

Mr. FLOOD. Yes.

Mr. SMITH of Minnesota. Now, how much broader is the language we find in section 2 that these permits are to be revocable? How much broader is that than section 4, if any?

Mr. FLOOD. The language in section 2 refers to the language on page 9, line 4, and prescribes when the Secretary of War can at will revoke these permits; that is, when the navigability of the stream is affected, when its use for national defense is affected, when its volume as a boundary stream is affected, and when the scenic beauty is seriously impaired.

Mr. HUDDLESTON. Does the gentleman hold that a permit can not be revoked by the Secretary of War at his discretion?

Mr. FLOOD. For those causes he can.

Mr. HUDDLESTON. That is for cause, but can it be revoked without cause?

Mr. FLOOD. Oh, the Secretary of War in his discretion, absolutely, if he thinks the navigability of the stream is affected—

Mr. HUDDLESTON. Suppose the National Government has occasion for this water for itself, could the permit be revoked?

Mr. FLOOD. No.

Mr. HUDDLESTON. Does the gentleman think we should grant this power away for 50 years, irrevocable, except for cause? Does the gentleman think this Government ought to put itself in that position?

Mr. FLOOD. I say that he could not revoke it at his will. He would have to assign cause.

Mr. HUDDLESTON. Is that sufficient cause shown in the bill anywhere?

Mr. FLOOD. We are discussing the revocable permit now.

Mr. HUDDLESTON. That is what I am asking now. I want to find out the ground on which it can be revoked, and I want to find out whether if an emergency should arise and the National Government should decide to take over these works for any cause on any of the grounds mentioned that forfeits the permit, we would have the power to do it. The gentleman has answered me he does not think we could do it, and now I am asking him if we should grant away this power for 50 years without an opportunity to recapture it?

Mr. FLOOD. There is already a law covering the suggestion made by the gentleman, and we propose to provide for recapture. For certain reasons the Secretary of War can revoke the permits at will.

Mr. HUDDLESTON. What does the gentleman mean by "at will"?

Mr. FLOOD. For the causes specified in the bill. He does not have to give an opportunity to the permittee to be heard. The causes for which he may revoke this permit are laid down in the bill.

Mr. HUDDLESTON. And the Secretary of War would have no power to revoke this permit in order to take over these works to manufacture nitrates for Government use?

Mr. FLOOD. That is a matter not of discretion, but he would have to revoke for cause.

Mr. HUDDLESTON. That is not specified.

Mr. FLOOD. That is not specified.

Mr. HUDDLESTON. Then he could not do that?

Mr. FLOOD. Not under that section.

Mr. HUDDLESTON. But under any section?

Mr. FLOOD. Yes; he can.

Mr. HUDDLESTON. Under what section?

Mr. FLOOD. The section we will insert before the bill is passed.

Mr. HUDDLESTON. If he simply passes out of the game.

Mr. FLOOD. I am not saying that. And the gentleman is aware that we are to offer amendments to the bill. He has amendments himself, and that question is not very germane to the discussion of whether or not we should authorize the Secretary of War to grant a revocable permit.

Mr. HUDDLESTON. Will the gentleman permit me to say that I have no knowledge of any amendments that he desires to offer to the bill?

Mr. FLOOD. We have some.

Mr. HUDDLESTON. I wanted to find out what they were, so that we could act intelligently on this proposition.

Mr. FLOOD. The question before the House now is the question of a revocable permit and whether it is fair to the permittees that the Secretary of War should be authorized to

grant a revocable permit. I was simply pointing out that it was fair to them if he could only exercise the power of revocation at will for the causes specified in the section read.

Mr. BURNETT. Mr. Speaker, the statement of the gentleman is absolutely satisfactory to me if he is correct in his conclusions.

Now, as I understand, the revocable permits that are referred to in section 2 relate to revocation for the causes subsequently stated. I am afraid that the language does not imply that. Would the gentleman have any objection—I have great confidence in his judgment, and I do not want to antagonize his bill, especially this part of it—to having permits "revocable for the causes hereinafter stated"? I think that is entirely clear.

Mr. FLOOD. That would be satisfactory.

Mr. BURNETT. I think that would clear it up entirely. I would have no objection to it then.

Mr. HUDDLESTON. Mr. Chairman, I ask unanimous consent to proceed for five minutes.

Mr. FLOOD. I shall have to object. The gentleman has already discussed it.

The CHAIRMAN. The gentleman from Alabama [Mr. HUDDLESTON] asks unanimous consent to proceed for five minutes. Is there objection?

Mr. FLOOD. I object.

The CHAIRMAN. Objection is made.

Mr. MANN. Mr. Chairman, I move as a substitute for the pending proposition to insert, after the word "permits," the words "revocable at the pleasure of the Secretary of War."

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Illinois.

Mr. STAFFORD. Mr. Chairman, let it be reported.

Mr. MANN. I do not care what it is. I want to get five minutes; that is all.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 2, line 2, after the word "permits," by inserting the words "revocable at the pleasure of the Secretary of War."

Mr. MANN. Mr. Chairman, I offer the substitute solely for the purpose of getting the floor. Gentlemen were objecting to the consideration of the bill. I was not in the House when the bill came up for consideration last Wednesday, but I could not let go by the statement of the gentleman from Virginia [Mr. Flood] in charge of the bill without expressing a contrary opinion as to the meaning of the word "revocable."

I apprehend that if we simply provided for the issuance of revocable permits it might then be within the jurisdiction of the Secretary of War to revoke them at his pleasure. But where you provide for the issuance of revocable permits and then go on and define the reasons for revoking the permit it is no longer to be at the pleasure of the Secretary of War. There must be some reason for the revocation. There must be some violation by the permittee of the provisions of the law or some conflict with the legal authority of the Secretary of War; and if the present Secretary of War issues a revocable permit under the terms of this law, if enacted, the ensuing Secretary of War can not say, "I do not like the color of the ink that was used in the granting of the former permit, and therefore I revoke it." Such a revocation at the mere pleasure of the Secretary of War would not be legal, nor, in my opinion, would that power be desirable.

While I offer the substitute, I am not in favor of the substitute which I offer.

Mr. SHERLEY. Mr. Chairman, will the gentleman permit a question before he takes his seat?

Mr. MANN. Certainly.

Mr. SHERLEY. I am inclined to agree with the gentleman's statement. Assuming that he is correct as to the interpretation, what value is left to the word "revocable"?

Mr. MANN. Well, it is a preliminary definition that something is going to follow, and probably it does not change the meaning of the law in any respect whatever.

Mr. SHERLEY. Two amendments were pending. One of them was to strike out the word "revocable" and then to add a proviso about national emergencies, which is unnecessary, because it is covered by another law. The reason I suggested the striking out of the word "revocable" was because some gentlemen were undertaking to impress upon the language an interpretation as if it read "revocable at will," which I do not think was either correct or ought to be in the bill.

Mr. MANN. I think it is desirable to have the language in the bill. The Secretary of War might have authority to revoke the permit for some reason not specifically set forth in this bill, and might not have that authority if it were not a revocable permit, although I have some doubt about that.



Mr. HUDDLESTON. Mr. Chairman, I rise in opposition to the amendment of the gentleman from Illinois [Mr. MANN].

I do not think these permits ought to be revocable at will or at pleasure. I criticized this bill the other day as being intended for the benefit of the two concerns that are now at Niagara. Mr. Chairman, those concerns are compelled to accept these permits on any terms that we choose to fix. It makes no difference how onerous those terms are, they are compelled to adhere to them. If these permits are granted at all, they will be granted to those two concerns, because other concerns can not come in and subject themselves to the expense necessary. Therefore, there will be no competition with these two concerns that we have there now, and we might as well put their names in this contract and specify that they can continue to go on and develop the power there just as they have done in the past unless we put the words in here that the permits are revocable at will.

These firms are not developing the power at the most efficient head and there is a great waste of power. They realize that, and would like to correct it, but they can not afford to go to the expense of correcting that waste unless they have something definite in hand that will enable them to know what they have. Therefore it is important that they should know that there is a fixed term and period so that they will know what to depend on. This is also necessary in order that any outsider who may come in and get a permit may be permitted to hold it for a reasonable time.

Now, there is no recapture clause in this bill. I do not know what amendments the gentlemen who are interested in pushing the bill in its present form have up their sleeves, because the House has not been taken into their confidence, nor have I, either. They may intend to put in a recapture clause; I do not know. But nobody in the absence of a fair recapture clause can afford to spend one cent at those Falls so long as the permit is revocable at will.

However, we ought to have this permit made revocable at will. I am not willing that the Government shall grant away this water power of immense value, for the long period of 50 years mentioned in the bill, without the power to take it back again if the national welfare should require it; but we can not afford to put in a revocable-at-will clause unless we have a fair recapture clause. That is what we ought to have, a revocable-at-will clause, accompanied by some recapture clause, that will fairly protect the rights and interests of those who make their investment.

Mr. SMITH of Minnesota. Will the gentleman yield?

Mr. HUDDLESTON. I yield to the gentleman from Minnesota.

Mr. SMITH of Minnesota. Does the gentleman disagree with the construction that the words "revocable at will" in this bill as it now stands do not have any significance, and that if the bill should pass in its present form the Secretary of War would not have the right to revoke the permit at will?

Mr. HUDDLESTON. I will say to the gentleman from Minnesota that it is perhaps not free from doubt, and that is why the bill should be amended. That is why I objected to the withdrawal of the amendment. Let us make it certain. Why should we leave a thing in doubt when we can make it certain? What I think it means is, "revocable as hereinafter expressed." I think a court in interpreting it would read that into it. But it was argued here the other day by the author of the bill that it was revocable at will, that the Secretary could revoke it at any time he wanted to. Evidently there is difference of opinion on the subject, and why should there be any doubt about it? Now is the time to make the matter sure, and let us make it sure by some such amendment as that which has been offered. Let us either give this permit, or else let us refuse it. Let us give it for a fixed period, or else let us make it revocable at will. Let us not make it doubtful, when we have passed it, whether it means that it is revocable at will or after a period of 50 years.

Mr. SMITH of Minnesota. Is it not true that from the explanation given the other day a number of Members of the House understand this thing to mean that a permit given under this law would be revocable at will?

Mr. HUDDLESTON. The explanation given by gentlemen can be interpreted in both ways. They seem to be on both sides of the question. One day they seem to be of the opinion that it would be revocable at will and the next day that it will last for 50 years. Of course this bill must be read all together. That is the only fair way to interpret it. We have the word "revocable" here, and later in the bill we have certain causes specified which authorize the cancellation and revocation of the permit.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HUDDLESTON. I move to strike out the last word. I think any court in construing this bill will refer this word "revocable" to the causes that are stated in the bill authorizing revocation. That is what I think would be a reasonable and fair construction of the bill. The gentleman from Virginia [Mr. FLOOD] did not call attention to section 5, which provides—

That all permits issued pursuant to this act shall be for a determinate period of not longer than 50 years—

and so forth, which seems to me clearly to imply that the permit shall be for a fixed period and shall not be revoked within that period except for the causes set out in the bill. I should regard any court that would hold to the contrary as departing from the true construction. But I do not know. Good lawyers and able Members here have insisted that it does not mean that.

Why should we not make it clear what the bill does mean, while we are about it? I think the amendment offered by the gentleman from Kentucky [Mr. SHERLEY] to the amendment of the gentleman from New York [Mr. DEMPSEY] ought to be adopted and that we ought to have it in that form in the bill. Then we ought to put into the bill a fair recapture clause that would insure investors in these works that they will get back what they put in, and that the Government should not slaughter them. To leave it in the condition in which it now is will discourage investors from going in there to compete with the Niagara Falls Power Co., and discourage that company from trying to develop their plant to the highest efficiency. It will discourage them from acting as though they were going to have a permit for a reasonable period and will put them in a position where they must be ready to get out at any time that the Secretary of War chooses to push them off. That is, if the construction put on the bill by these gentlemen is correct.

I do not believe in leaving out any words if words will make it sure. Let us make it sure. I do not think there is any gentleman who has any other desire than that. Let us make it sure if it is doubtful. Reckoning from certain dead reckonings and various astronomical data, I think that a court would finally reach the conclusion I have pointed out, but it is highly desirable that there should be no chance or hazard about the matter when we can make it plain that this is what we mean by using the language covered by the amendment of the gentleman.

Mr. CLINE. Mr. Chairman, the gentleman from Alabama did not read the whole of section 5, as I notice from looking at the printed bill.

The CHAIRMAN. All debate on this amendment is exhausted.

Mr. CLINE. I rise in opposition to the gentleman's last amendment. For the benefit of the House and for an answer to the gentleman from Alabama I want to read section 5—

That all permits issued pursuant to this act shall be for a determinate period of not longer than 50 years—

And that is where the gentleman stopped—subject, however, to all the provisions of said act.

Mr. HUDDLESTON. Will the gentleman yield?

Mr. CLINE. No; not now—

And neither said act nor any permit granted thereunder shall be construed to establish in any permittee or its successor any vested right.

So that that section plainly covers the entire provisions of this bill. The gentleman says he has no knowledge that any recapture clause is going to be offered. It was stated on the floor two weeks ago that a recapture clause would be inserted, and it was further stated that the recapture clause, known as the Adamson recapture clause, which has passed this House three different times, would be offered to this bill, so that, if the gentleman was here two weeks ago, he knows what proceedings were had with reference to that matter.

Mr. HUDDLESTON. Will the gentleman now yield?

Mr. CLINE. No; I will not yield now. We believe, using the expression of my good friend from Kentucky [Mr. SHERLEY], that the inertia in this proposition ought to be with the General Government. We believe that the Secretary of War ought to have the right to revoke any permit when the navigability of the stream becomes affected by the diversion of the water, when its proper function as a boundary stream becomes affected, when its proper volume as a means of national defense becomes affected, and the Secretary ought not to be obliged to give a reason to anyone for his action. And his decision ought to be final and from which there is no appeal. When any of these three great causes arises, he ought to revoke the permit.

Now, with reference to the fourth clause, in regard to the scenic beauty becoming affected in the opinion of the Secretary of War, he should have the right to revoke it, and we make it



necessary that he assign the cause of making it revocable after six months.

Now, Mr. Chairman, for any violation of the provisions of the permit we make it punishable according to the terms set out in the law, for which he can go into the courts and contest whether the permit ought to be revoked or not.

Mr. REAVIS. Will the gentleman yield?

Mr. CLINE. I will.

Mr. REAVIS. You use the word "revocable" on page 2. Does the gentleman construe that so as to grant authority to the Secretary of War to revoke a permit for reasons other than the causes assigned in the later portion of the bill?

Mr. CLINE. The other clauses on which the permit may be revoked are set out and the penalty for the violation is set out.

Mr. REAVIS. A familiar rule of construction is that where a general power in legislation is followed by a specific provision on the same subject, the general clause gives way to the specific clause. Would not the word "revocation" on page 2 be construed in connection with the limitations on page 4, and would not the Secretary of War be restricted to the causes enumerated on page 4 in declaring the revocation?

Mr. CLINE. I will say to the gentleman from Nebraska that we have set out definitely the grounds on which the revocation may be made for a violation of any of the terms of the permit. But the permittee would not be at liberty to decide whether the volume of water in the Niagara River was affected for navigation purposes; and for the three purposes that I named the Secretary of War ought not to be required to say to the permittee, "I believe the volume of this stream from the navigation standpoint is being reduced, and consequently I am going to revoke the permit." But he ought to have the right to revoke the permit without assigning a cause which could be contested in the court.

Mr. REAVIS. I am not debating whether he ought to have that right of not; I am trying to get your construction of the bill. You use the word "revocation" on page 2 in a general statement. In a later part of the bill you have a specific clause relating to the revocation, whereby it may be revoked on certain conditions. Now, in view of the familiar rule of construction to the effect that the general clause gives way to the specific clause on the same subject, would not the construction of the word "revocation" on page 2, being general, be limited to the causes on page 4?

Mr. CLINE. It would not, because we set out on page 9 the identical causes upon which, for reasons, the Secretary may declare it.

Mr. REAVIS. It was page 9 that I had in mind. My question is this: Under the rule of construction, whereby the revocation on page 2 being restricted to causes on page 9, would it give the Secretary of War the right to revoke permits for any reason other than those on page 9?

Mr. CLINE. I do not think the Secretary of War under a fair construction would have the right to revoke except for the causes assigned and with the exceptions set out in conjunction with it.

Mr. REAVIS. If the Secretary of War may revoke the permit only for causes assigned on page 9, what is the office of the word "revoke," on page 2?

Mr. CLINE. That is to give the Secretary of War power to revoke a permit for causes set out on page 9.

Mr. REAVIS. He would have that under the authority of the language used on page 9.

Mr. CLINE. He would not have for causes set out as triable by the court.

Mr. REAVIS. The gentleman's position is that the word "revocation," on page 2, gives the Secretary the right to revoke a permit for causes without a court trial?

Mr. CLINE. Yes.

Mr. REAVIS. And that is the object of the word "revocation" on page 2?

Mr. CLINE. It is; in connection with the four causes mentioned on page 9.

Mr. BURNETT. Mr. Chairman, will the gentleman yield?

Mr. CLINE. Yes.

Mr. BURNETT. Under the statement of the gentleman, I do not think there is much disagreement, but in order to make the matter clear, does not the gentleman think that if the words "revocable permits" were stricken out and the words "permits revocable for reasons hereinafter provided for in the bill" were inserted it would express the meaning that the gentleman and the chairman of the committee have stated?

Mr. CLINE. I will say to the gentleman from Alabama that we do not want to open the door on that proposition so as to permit the Secretary of War to be taken into court to discuss the full reasons why he revoked permits under the four assign-

ments. That is the reason we want the word "revocable" to be retained without any limitation.

Mr. HARDY. Mr. Chairman, if the purpose of the gentleman, as just stated, is the purpose of the committee, it seems to me they have left that vaguely and ineffectively stated, for if I were called upon to construe that I would hold that under this bill the Secretary of War had to show the cause before he could revoke the permit, and if you want him to get in the position where he can act, and the companies must go to court for relief, you have not got it in this bill.

Mr. CLINE. I think we have where there is a violation of the permit, taking it out of the exceptions I have named.

Mr. HARDY. That is the very issue this bill leaves to be determined before you revoke this permit.

The CHAIRMAN. The time of the gentleman from Indiana has again expired.

Mr. FLOOD. Mr. Chairman, I move to strike out the last three words. I would like to ask the gentleman from Texas to state his position again.

Mr. HARDY. Mr. Chairman, my position is that the word "revocable" in the context as it is just the same in effect as if you had followed it by saying "for the causes hereinafter stated," because you do follow it later by section 4, defining the causes for which he may revoke. Then the cause becomes a condition precedent that must be found by the court.

Mr. FLOOD. The causes for which he can revoke at will.

Mr. HARDY. But you have not got "at will" in the bill.

Mr. FLOOD. These are the causes for which he can revoke at will. That is clear from reading the section, and the other revocation is a penalty, but if it is for cause that would take the matter into court.

Mr. HARDY. If the gentleman wants it clear, why not state that the action of the court shall determine this matter of the existence of the cause.

Mr. FLOOD. I will say to the gentleman that 11 years ago a bill was passed with this language in it, and it has been the law of this country for all of that time.

Mr. HUDDLESTON. Mr. Chairman, will the gentleman yield?

Mr. FLOOD. Yes.

Mr. HUDDLESTON. That bill the gentleman speaks of provided the permits might be granted to the parties now using the water.

Mr. FLOOD. I am not talking about that. That bill provided for revocable permits. This matter has been operated for 11 years under this language.

Mr. HARDY. Has it ever been revoked?

Mr. FLOOD. No.

Mr. HARDY. So there never has been any decision?

Mr. FLOOD. There never has been any decision, but the War Department and the permittees understand what the language means, and it seems to me unwise in the heat of debate to undertake to change language which is 11 years old, and which is understood by all of the parties who are dealing with the proposition.

Mr. HARDY. The gentleman from Indiana stated the situation. He wanted the inertia to rest with the Government. He wanted the other side to have the laboring oar, and the decision of the Secretary to be prima facie and in the first case effective. I do not believe that this bill makes it so.

Mr. FLOOD. I think the gentleman will find that it does.

Mr. BURNETT. Mr. Chairman, I offer the following substitute—

The CHAIRMAN. A substitute is already pending. The gentleman's substitute is not in order at this time.

Mr. BURNETT. It is a substitute for all of the amendments.

The CHAIRMAN. There is an amendment pending and an amendment to that amendment and a substitute. The question now is on the amendment offered by the gentleman from Kentucky [Mr. SHERLEY] to the amendment offered by the gentleman from New York [Mr. DEMPSEY].

Mr. STAFFORD. Mr. Chairman, let us have the substitute and the amendments reported again.

The CHAIRMAN. Without objection, the Clerk will again report the amendment and the amendment to the amendment and the substitute.

There was no objection, and the Clerk again reported the amendment and the amendment to the amendment and the substitute.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kentucky [Mr. SHERLEY] to the amendment offered by the gentleman from New York [Mr. DEMPSEY].

Mr. SAUNDERS. Mr. Chairman, I move to strike out the last two words.



The CHAIRMAN. Debate upon the amendment has been exhausted.

Mr. SAUNDERS. Then I move to strike out the last three words. There is no such thing as exhausting these pro forma amendments.

Mr. MANN. That is an amendment in the third degree.

Mr. SAUNDERS. If anyone chooses to make a point of order upon any of these motions to strike out the last word or the last two words, or the last three words, it would of course require the Member making the motion to speak to the amendment.

The CHAIRMAN. If there is any possible limit to debate under the five-minute rule, it has been exhausted upon this amendment.

Mr. MANN. The gentleman could move to strike out the last word of the substitute and be in order.

Mr. SAUNDERS. I understand I can do that and be in order, and I understand also, that all of these pro forma amendments are conventions, and in substance amount to a request for unanimous consent. I want about two minutes, and will ask unanimous consent to address the committee on the pending amendments for two minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. SAUNDERS. Mr. Chairman, I wish to say that there seems to be some apprehension on the part of some members of the committee over the use of the word "revocable," and desire to call the attention of the members present to-day, who were not present last week, to the fact that the law under which the business at Niagara Falls has been largely developed, not only afforded the same power of revocation that appears in the present bill, but in order to clench the power of the Government over the concerns operating under the act, the law further contained a reservation of the right to amend, alter, or repeal at pleasure the privileges therein conferred. So that the power of the Government, so far as these permittees are concerned, under the act of 1908 was as sweeping and comprehensive as that afforded by the language used in the present bill. The lawmakers specifically wrote into that act the provision reserving the right to alter, amend, or repeal the same at pleasure. It is very desirable that this reservation should appear in our Federal statutes in order to prevent the question of vested rights from arising so as to hinder the exercise of our right of repeal.

Mr. MANN. That is inserted in this case.

Mr. SAUNDERS. I was merely calling attention to the fact that this reservation appeared in former act under which the companies at Niagara Falls heretofore have done business and developed their industries.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kentucky to the amendment offered by the gentleman from New York.

The question was taken, and the Chairman announced the yeas appeared to have it.

Mr. HUDDLESTON. Mr. Chairman, I demand a division.

The committee again divided.

Mr. MILLER of Minnesota. Mr. Chairman, I suggest the members of the committee did not understand the question on which they were voting. Will the Chair restate the question?

The CHAIRMAN. The vote has already been taken and there were—yeas 38, yeas 15.

Mr. FLOOD. Mr. Chairman, I ask for tellers. Mr. Chairman, I withdraw the request.

So the amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the substitute offered by the gentleman from Illinois [Mr. MANN].

Mr. MANN. Mr. Chairman, I ask unanimous consent to withdraw the substitute.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent to withdraw the substitute. Is there objection? [After a pause.] The Chair hears none. The question now is on the amendment offered by the gentleman from New York [Mr. DEMPSEY] as amended by the amendment of the gentleman from Kentucky.

Mr. SEARS. Read the amendment.

The question was taken, and the Chair announced the yeas seemed to have it.

Mr. HUDDLESTON. Mr. Chairman, I call for a division.

Mr. MANN. Mr. Chairman, I ask for the regular order.

Mr. GOODWIN of Arkansas. Mr. Chairman, I ask that the amendment be reported.

Mr. MANN. Mr. Chairman, I ask for the regular order.

The CHAIRMAN. The gentleman from Illinois demands the regular order. The gentleman from Alabama demands a division.

The committee again divided; and there were—yeas 27, yeas 61.

So the amendment was rejected.

Mr. SHERLEY. Mr. Chairman, I move to strike out the word "conditions," on page 2, line 7, just as a formal motion in order to make a statement to the gentleman from Virginia [Mr. FLOOD], and then I will offer a regular amendment. Lines 6 and 7, page 2, read:

All permits granted by authority of this act shall be granted upon the following conditions.

And then follows three subdivisions of conditions. Then there follow a number of sections which are also conditions. Now, I submit to the gentleman from Virginia [Mr. FLOOD] that the arrangement is unfortunate, because it might raise some question as to whether the only conditions are those that are named in sections 2 and 3, and perhaps a simplified form of the bill would be to have the language read "all permits granted by virtue of this act shall be subject to all subsequent provisions herein," and then change the word "first," in line 8, to the words "section 3," and then just number your sections on down. I do not understand the reason for having three conditions in section 2 and then the other conditions named as separate sections.

Mr. FLOOD. Well, the conditions, Mr. Chairman, in subdivisions 1, 2, and 3—section 3 of the bill then provides how a transfer of a permit shall be granted. It is not a condition upon which a permit is granted.

Mr. SHERLEY. Section 5 is, so is section 6, so is section 7.

Mr. FLOOD. Section 5 reads "that all permits issued pursuant to this act shall be for a determinate period"—well, Mr. Chairman, that may be a very good suggestion, and I accept the suggestion made by the gentleman.

Mr. SHERLEY. Mr. Chairman, I offer the following amendment. On page 2, line 7, strike out all after the word "granted" and insert "subject to all provisions of this act."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, on page 2, by striking out after the word "granted," in line 7, the remainder of the line and insert "subject to all provisions of this act."

The CHAIRMAN. The question is on the amendment.

Mr. SMITH of Minnesota. Mr. Chairman, I move to strike out the last word of the amendment. I want to ask the chairman of the committee—

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kentucky.

Mr. SHERLEY. If the gentleman will permit, let us get this straightened out so as not to get into a tangle again.

The question was taken, and the amendment was agreed to.

Mr. ROGERS. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. ROGERS. Is it in order at this point to offer an amendment at the end of the first subdivision, namely, at the end of line 15, page 3? Has that portion of the bill been read?

The CHAIRMAN. All of section 2 has been read, and any amendment to any part of the section is in order.

Mr. ROGERS. I understand all of section 2 has been read?

The CHAIRMAN. Yes.

Mr. SHERLEY. If the gentleman will permit, I want to suggest that if all of section 2 has been read and is open to amendment, I desire to strike out the word "first," in line 8, page 2, and substitute the words "Section 3," and then I shall do that right on down.

The CHAIRMAN. The Chair will state for the benefit of the committee that the Clerk informs him that the bill has been read only down to the end of the first subdivision.

Mr. ROGERS. At the end of line 15, on page 3.

The CHAIRMAN. Yes; that would be in order.

Mr. ROGERS. I offer the following amendment, Mr. Chairman.

The CHAIRMAN. The gentleman from Massachusetts offers an amendment, which the Clerk will report.

Mr. DEMPSEY. Mr. Chairman, I have an amendment that precedes the amendment offered by the gentleman that I suppose, to be in order, should be offered first.

The CHAIRMAN. Will the gentleman withhold his amendment first?

Mr. ROGERS. I do not see how we can have these taken up actually in the order they appear in the bill.

Mr. FLOOD. By unanimous consent, an amendment can be offered to any of these subsections.

Mr. MANN. Not if they have not been read.

Mr. ROGERS. The Clerk read only to the end of line 15 on page 3.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Massachusetts [Mr. ROGERS].

The Clerk read as follows:

Amendment offered by Mr. ROGERS: On page 3, at the end of line 15, insert the following as a new sentence:

"In granting any permit the Secretary of War may, in his discretion, require that the permittee shall furnish all or any part of the electrical energy developed by it directly to a State, municipal corporation, or political subdivision thereof, or to ultimate consumers. Such requirement may be for the entire life of the permit or for such portion thereof as the Secretary of War shall stipulate."

Mr. FLOOD. Mr. Chairman, I discussed that with the gentleman from Massachusetts [Mr. ROGERS] and also with the author of the bill, and we are perfectly willing to accept the amendment.

Mr. ROGERS. I do not care to be heard, Mr. Chairman, if that is the case.

The CHAIRMAN. The question is on agreeing to the amendment.

Mr. COOPER of Wisconsin. Mr. Chairman, there is a general request here among Members that that be again reported. They could not get the full purport of it.

The CHAIRMAN. The Clerk will again report the amendment.

The amendment was again reported.

Mr. COOPER of Wisconsin. Mr. Chairman, I do not think we ought to adopt this in its present form, because it does not at all change a very objectionable feature of this bill. On page 2, beginning with line 8, it is provided:

That no permit shall be granted hereunder except to a State or municipal corporation, or political subdivision thereof, or to a public-service corporation or to a public-service agent of a State, duly constituted and authorized to engage in the business of furnishing to the public light, heat, power, or electric current—

And so forth.

Now turn to page 4, and the gentleman will find, at the beginning of line 15, after the semicolon:

And the permittee, after the completion of the works, shall operate the same continuously for the development and transmission of electric current, power, and energy for sale or for other commercial purposes.

The words "for other commercial purposes" are exceedingly important. They mean that the permittee may in his discretion sell or not sell electric current. We all know the facts. I read this from a letter written to the gentleman from Alabama [Mr. HUDDLESTON], on the 20th of last month, by Mr. Seymour Van Santwood, chairman of the Public-Service Commission of the State of New York:

#### HYDRAULIC POWER COMPANY.

It is understood that this company is limited by restriction of Federal authorities to the use of 6,500 cubic feet of water per second, which represents roughly 125,000 horsepower. At the load factor which exists in the case of the Niagara Falls Power Co., this would amount to 700,000,000 kilowatt hours per year.

This company sells mechanical power only, and for that reason is not under the jurisdiction of this commission.

I pause here to comment upon the elaborate arguments and statements that were made a week ago, that all was to be left to the New York State commission up there.

Mr. PARKER of New York. Will the gentleman yield?

Mr. COOPER of Wisconsin. I can not yield now.

It appears that about two-thirds of the power so sold is purchased by persons or corporations who are not subject to the commission's jurisdiction, and there is therefore no data available concerning such power. It seems to be the practice for such purchasers to own or lease the generators and cables by means of which the mechanical is converted into electrical power and conveyed to the point for use.

Now, as I understand that—and my colleague will correct me if I am not correct—it refers to largely what is known as the Schoellkopf Co.

Mr. HUDDLESTON. The Schoellkopf Co.—

Mr. COOPER of Wisconsin. That is a manufacturing company.

Mr. HUDDLESTON. I am not advised of that; but it has close relations to a great many industrial companies in Niagara who lease this power, and who lease industrial sites from it, and they are so interlocked it is practically impossible to find out who is who.

Mr. SMITH of Minnesota. Mr. Chairman, at this point I make the point of order there is no quorum present.

The CHAIRMAN. The gentleman from Minnesota makes the point of order there is no quorum present. The Chair will count. [After counting.] One hundred and thirty-one gentlemen are present, a quorum.

Mr. CLINE. Mr. Chairman, a provision of this bill, written on page 2—

Mr. COOPER of Wisconsin. Mr. Chairman—

Mr. CLINE. Has the gentleman finished?

Mr. COOPER of Wisconsin. No; I have not.

Mr. CLINE. I thought you surrendered to the gentleman to make the point of no quorum.

Mr. SMITH of Minnesota. He did not surrender.

Mr. CLINE. I want to call the committee's attention to this provision:

No permit shall be granted hereunder except to a State or municipal corporation or political subdivision thereof, or to a public-service corporation or to a public-service agent of a State—

Now, what next?—

duly constituted and authorized to engage in the business of furnishing to the public light, heat, power, or electric current.

They can not engage in the business unless they are public-service corporations. Now, reference was made to one of the power companies up there. The Schoellkopf people, or the Niagara Hydraulic Co., develop mechanical power. They sell that mechanical power to what is known as the Cliff Development Co., who transfer it to electrical energy and sell it to the customers of the Hydraulic Power Co.

Now, the principal purpose of including this provision is to compel all of these companies to become public-service corporations, so that they shall be completely under the control of the public-service agents of the State of New York or any other State that has the right to control the price of the electric energy that they create, so that the provision is clearly covered in this bill. No man and no company and no agents of the State of New York can get a permit under this bill unless they are a public-service corporation if we pass this bill.

Mr. SMITH of Minnesota. Mr. Chairman, will the gentleman yield?

Mr. CLINE. I will.

Mr. SMITH of Minnesota. Is there any preference given under this bill to the existing companies at Niagara on the American side?

Mr. CLINE. There is no preference given in this bill. If the gentleman will read the first part of section 2, beginning with line 8, he will find that anybody can come in.

Mr. SMITH of Minnesota. Is not the primary purpose of this bill to permit the companies that are there to use an additional 4,200 cubic feet of water temporarily?

Mr. CLINE. Yes; temporarily.

Mr. SMITH of Minnesota. Under a resolution that passed Congress granting the right temporarily?

Mr. CLINE. Yes, sir.

Mr. SMITH of Minnesota. The gentleman from Wisconsin [Mr. COOPER] suggested that they had it extended a year or so, until we could get more facts concerning the matter. But the facts are, as I understand, that there are only two companies on the American side.

Mr. CLINE. The gentleman does not want to take up all my time, I know.

Mr. SMITH of Minnesota. Only a minute. I shall ask that the gentleman be given more time if he desires. There are only two companies on the American side at the present time. If it were not for the resolution we passed the other day, authorizing 4,200 cubic feet of water to be taken, they would not have that right, and the primary purpose of this bill is to permit them to use that 4,200 cubic feet. That is the purpose, is it not?

Mr. CLINE. That is not the purpose.

Mr. SMITH of Minnesota. Do you expect other companies to operate there?

Mr. CLINE. We can not forecast who will go there to use that water. We provide that any company can go in and use this water under this bill. Nobody is shown a preference. It is open to everybody.

The CHAIRMAN (Mr. SAUNDERS). The time of the gentleman from Indiana has expired.

Mr. HUDDLESTON. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Massachusetts [Mr. ROGERS]. The bill does not specifically name the two concerns now operating at Niagara, but the bill is so drawn that nobody else could afford to go in there.

That is the criticism I have made of the bill from the beginning. I do not ask that my construction be accepted, but would like any Member who feels an interest in the matter and is acquainted with the situation at Niagara to read the bill carefully and see whether any other concern can go in there and get any of that power.

The amendment offered by the gentleman from Massachusetts [Mr. ROGERS] is a good one, so far as it goes. It proposes to place in the hands of the Secretary of War the power to require these generating concerns to get these permits to sell their electrical energy to the municipalities or public corporations. In other words, it provides for community ownership, municipal ownership, of the power after it is generated, and to that extent I commend the amendment. I think it is enlightened and proceeds in the right direction.



The fault I find with the amendment is that it is based upon the conception that we are bound to have some private interests standing between this water and the municipal ownership or the community ownership. If it is fit and right that the communities in western New York should be enabled to avail themselves of the current without a middle man or distributee in the shape of these private concerns, why should they not be permitted to generate the power themselves? Why do we provide for giving some exploiting interest a take-out? Why do we insist that the people shall pay a profit to some private concern? Why do we not take a lesson from Canada? It is not an experiment at Niagara; not at all. There is a community experiment going on right there now. It is not going on on the American side, but it is going on on the Canadian side. It is proving a tremendous success; such a success that the people of Ontario are paying for power only from one-third to one-half of what is paid for it on the American side. Yet the power is just as close to one country as to the other. Why is it? Is it because we are recognizing vested rights? Do we insist that these private interests are entitled to be there? There is no lawyer here but will tell you that they have no legal basis for their position.

Mr. COX. Mr. Chairman, will the gentleman yield?

Mr. HUDDLESTON. Yes.

Mr. COX. That is very interesting to me. Why is it that they are getting power on the Canadian side cheaper than on our side?

Mr. HUDDLESTON. I will explain it to the gentleman.

In Canada they have a public commission, chartered by the Province of Ontario, and they take power from one of the generating concerns at Niagara Falls, 100,000 horsepower, that they get for \$9 a horsepower. They also generate electric energy at nine different plants outside of Niagara, up into Ontario, clear over to the Port Arthur country, a thousand miles away. They are generating it at nine different generating stations, making the power themselves and delivering it to the people of Ontario at the cost of production plus an administration and amortization charge.

Mr. COX. Are they required to deliver it at cost?

Mr. HUDDLESTON. They are required to deliver it at cost plus administration and under a plan of amortization in 30 years.

Mr. COX. In other words, the Government of the Dominion of Canada owns the generating plant?

Mr. HUDDLESTON. Yes; just as the government of a State, through a city, owns an electric plant; just as the State of Ohio, through the city of Cleveland, owns a steam-generating plant in the city of Cleveland that sells current at 3 cents a kilowatt hour, while in Buffalo and Niagara the people are paying 8 cents per kilowatt hour.

Mr. LINTHICUM. Mr. Chairman, will the gentleman yield?

Mr. HUDDLESTON. Yes.

Mr. LINTHICUM. Is it not a fact that on the Canadian side the Government went in there and said, "If you will furnish us this power at \$9, we will guarantee your securities to a certain extent and become a partner in the enterprise?"

Mr. HUDDLESTON. Not at all.

Mr. LINTHICUM. I think that is so.

Mr. HUDDLESTON. I am not so informed.

The CHAIRMAN. The time of the gentleman from Alabama has expired.

Mr. HUDDLESTON. Mr. Chairman, I move to strike out the last word.

Mr. FLOOD. Mr. Chairman, I would like to reply to the gentleman.

The CHAIRMAN. The gentleman from Virginia is recognized.

Mr. MILLER of Minnesota. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MILLER of Minnesota. Has not the gentleman from Alabama [Mr. HUDDLESTON] just recently been recognized and occupied his full time?

Mr. HUDDLESTON. I rise in opposition.

Mr. MILLER of Minnesota. How many times are you going to be recognized?

Mr. HUDDLESTON. Just as often as I can be recognized.

Mr. MILLER of Minnesota. You will not be recognized out of your order if I can stop it.

Mr. FLOOD. The Chairman recognized me.

Mr. MILLER of Minnesota. I make the point of order that the gentleman should not be recognized.

Mr. FLOOD. The Chair recognized me.

Mr. HUDDLESTON. May I, as a friend of the court, direct the attention of the Chair to the fact that I rose in opposition

to the motion of the gentleman from Massachusetts [Mr. ROGERS] to amend—

The CHAIRMAN. The Chair will state the exact parliamentary situation. The gentleman moves to strike out the last word. That is, in substance, a request for unanimous consent, because if objection is made the gentleman is confined to debate on his amendment to strike out the last word, and he can not get anywhere with it. The gentleman from Virginia [Mr. FLOOD] asks recognition, and the Chair recognizes the gentleman.

Mr. FLOOD. Mr. Chairman, I merely want to call the attention of the House—

Mr. HUDDLESTON. I rise to a point of order. Debate is exhausted on the amendment.

Mr. LINTHICUM. Oh, I hope the gentleman will not do that.

Mr. HUDDLESTON. Why, certainly I will. If I can not be heard, nobody else shall be.

Mr. FLOOD. I simply want to call attention to the fact—

The CHAIRMAN. The point of order is made that debate on this amendment is exhausted.

Mr. MILLER of Minnesota. I suggest that the gentleman can be recognized in opposition to the motion made by the gentleman from Alabama [Mr. HUDDLESTON].

Mr. FLOOD. Mr. Chairman, I will not ask for any time for myself, but I ask unanimous consent that the gentleman from Massachusetts [Mr. ROGERS], who offered the amendment, be given five minutes to explain his amendment.

The CHAIRMAN. The gentleman from Virginia asks unanimous consent that the gentleman from Massachusetts who offered the amendment have five minutes to explain his amendment. Is there objection?

Mr. HUDDLESTON. I couple with that the request that I may have five minutes to proceed with the discussion of this Canadian situation.

Mr. MILLER of Minnesota. Then I will object.

Mr. LINTHICUM. I object.

The CHAIRMAN. That can not be coupled with the request, except by unanimous consent.

Mr. HUDDLESTON. Nothing can be done except by unanimous consent.

The CHAIRMAN. The Chair puts the request of the gentleman from Virginia [Mr. FLOOD]. Is there objection?

Mr. HUDDLESTON. I object.

The CHAIRMAN. The gentleman from Alabama objects.

Mr. SMITH of Minnesota. I move to strike out the last two words.

The CHAIRMAN. The Chair has already indicated that that motion is in substance a request for unanimous consent. If the point of order is made that the gentleman must confine himself to his amendment, he can not discuss anything.

Mr. GARDNER. A parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. GARDNER. After the motion to strike out the last word is voted on and defeated, or even if it is carried, then would it not be in order to move to strike out the last two words, and to proceed to discuss that?

The CHAIRMAN. It is in order, technically. Substantially, however, if the gentleman makes that motion, and the point is made that he must confine himself to his amendment, he can not proceed with these general discussions that we have on the motion to strike out the last word, or the last two words. In substance it is nothing in the world but a request for unanimous consent.

Mr. GARDNER. If the Chair will excuse me—

Mr. LINTHICUM. Objection has been made to the author of the amendment explaining it, and now if some one else is recognized to move to strike out the last two words, I give notice that I shall make him confine himself to the discussion of the last two words.

The CHAIRMAN. The gentleman offers an amendment to strike out the last two words. Now we will await the action of the committee. If the point of order is made that the gentleman must discuss his amendment, he will have to speak to the last two words, and nothing else.

Mr. SMITH of Minnesota. Mr. Chairman, I withdraw my amendment, and I move to strike out the last four lines of the amendment.

The CHAIRMAN. The gentleman from Minnesota asks unanimous consent to withdraw his amendment, to strike out the last two words. Is there objection?

Mr. LINTHICUM. I object.

The CHAIRMAN. The gentleman objects. It requires unanimous consent in Committee of the Whole.

Mr. SMITH of Minnesota. Do I understand, Mr. Chairman, that I have the floor?

The CHAIRMAN. The gentleman has the floor.

Mr. SMITH of Minnesota. Mr. Chairman, the amendment that has been offered by the gentleman from Massachusetts would, to my mind, be an unwise one to adopt.

Mr. LINTHICUM. Mr. Chairman, I make the point of order that the gentleman is not confining himself to the last two words.

The CHAIRMAN. The gentleman must confine himself to his amendment.

Mr. MANN. I rise to discuss the point of order. I think the Chair is slightly in error. A motion to strike out the last two words involves the whole paragraph under discussion. You can not discuss the last two words of a paragraph without liberty to discuss the paragraph. I will say to the Chair that that ruling has been made a great many times in the House. Of course, you can not go to subjects that are not connected in some way with the last two words of the amendment.

Mr. LINTHICUM. Will the gentleman yield for a question?

The CHAIRMAN. What distinction has ever been made between the motion to strike out the last two words and the motion to strike out the last word?

Mr. MANN. No distinction.

The CHAIRMAN. The invariable ruling has been that where a motion to that effect is made, the Member making it must confine himself to the subject of the amendment, the last word or the last two words.

Mr. MANN. He is not confined to the words. There has been no such ruling.

The CHAIRMAN. He is confined to the amendment.

Mr. MANN. He is confined to the effect of striking out the word or the paragraph.

The CHAIRMAN. If the gentleman will proceed in order, and confine himself to the amendment, the Chair will allow him to proceed, but he must confine himself to his amendment.

Mr. SMITH of Minnesota. The Chair and the "gentleman from Minnesota" are not in agreement as to just what has taken place.

The CHAIRMAN. Let the amendment be reported, so that the Chair can see whether he has stated it.

Mr. SMITH of Minnesota. I made a motion to strike out the last four lines. The motion I made, may it please the Chair, was to strike out the last four lines of the amendment.

The CHAIRMAN. But the gentleman could not do that, because he had previously made a motion to strike out the last two words. He requested unanimous consent to withdraw that motion, but objection was made. The motion to strike out the last two words is the pending motion.

Mr. SMITH of Minnesota. Very well. If they want to vote upon it, I am willing. If they are willing that I should proceed, I am ready to proceed.

The CHAIRMAN. If the gentleman wishes to discuss his amendment to strike out the last two words, let the Clerk report the last two words and see what they are.

Mr. SMITH of Minnesota. The last two words are "shall stipulate."

The CHAIRMAN. The gentleman rises to discuss the amendment to strike out "shall stipulate."

Mr. SMITH of Minnesota. May it please the Chair, this is very unwise, exceptionally unwise, to leave in a law as important as this the words "shall stipulate." The stipulation in any contract should be thoroughly considered, should be weighed carefully, and I assure the members of this committee that no consideration whatever has been given to these words except by a few members of the committee and the author of the bill. It will change the whole effect of the bill if you leave those words in.

Mr. MILLER of Minnesota. Will the gentleman yield?

Mr. SMITH of Minnesota. Yes.

Mr. MILLER of Minnesota. Does not the gentleman think that it would help it if we changed "shall" to "will"?

Mr. HASTINGS. Can not the gentleman find some other substitute or synonym for the word "stipulate"?

Mr. SMITH of Minnesota. Yes; "agree" is a good synonym. We are authorizing the Secretary of War to stipulate away the rights of the public in its water powers. That is the question at issue. We are taking from this Congress and the people of this country the right to say what shall be done with the public's water powers and authorizing the Secretary of War to dispose of them to his friends. [Applause.]

No civilized country would for an instant consider the inauguration of such legislation. There is not a progressive country in the world to-day but what has water-power legislation that

would serve as an example for us to follow; but we shirk our duty day after day by turning over to the executive departments of the Government the right to legislate. We are permitting them to "stipulate" as to what we will do with our water powers and what our interests shall be, if any, in the natural resources of the country. This is stipulating with a vengeance. Are we not paying too dear for our whistle? Is a seat in this House worth the price of such a stipulation? Why should we play the part of dupes for the Hydroelectric Trust? Is it conceivable that our constituents will not discover that their rights have been surrendered to their enemies?

Mr. SLOAN. Will the gentleman yield?

Mr. SMITH of Minnesota. I will.

Mr. SLOAN. Does the gentleman think that stipulation would give way to capitulation?

Mr. SMITH of Minnesota. Most assuredly; we would be capitulating to the bureaucracy which is becoming so powerful that the Congress sets up and takes notice every time the Secretary of War comes before us and tells us what he wants to do in reference to water-power legislation. That is the condition we are getting into. It is time that we stopped stipulating and began legislating in the interest of the public. [Applause.]

Mr. FLOOD. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. FLOOD. I would like to know if all of section 2 of this bill has been read.

The CHAIRMAN. The Clerk informs the Chair that it has not.

Mr. FLOOD. Mr. Chairman, my understanding is that the bill ought to be read by sections. All bills, except appropriation bills, are read by section before there is any opportunity offered for amendment. I had an impression that there was unanimous consent to read it by paragraphs, but I have not yet had the opportunity to look it up.

Mr. ROGERS. Would not the result of the amendment offered by the gentleman from Kentucky [Mr. SHERLEY] be that the paragraph would become a section, and so the principle is very much the same.

Mr. FLOOD. I do not think that amendment was adopted. I was trying to find what the unanimous consent was, but I have not yet found it in the RECORD. My recollection is that the unanimous consent was obtained to offer amendments to any paragraph after we got through reading the entire section, but I may be mistaken about that. If I am not, I make the point of order that the section must be read before the amendment is offered.

Mr. HUDDLESTON. Mr. Chairman, I rise for a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. HUDDLESTON. Does the Chair propose to stop debate while this question is being looked up?

The CHAIRMAN. The Chair thinks that the bill is required to be read by sections.

Mr. HUDDLESTON. But in case there was unanimous consent that it be read by paragraph—

The CHAIRMAN. The Chair does not undertake to pass on that.

Mr. HUDDLESTON. I think such an agreement was made in connection with this bill.

The CHAIRMAN. If such was the unanimous consent, that controls the consideration of the bill.

Mr. FLOOD. Mr. Chairman, I move that debate on this paragraph and on all amendments thereto be closed.

Mr. HUDDLESTON. I make the point of order that a motion is already pending.

The CHAIRMAN. All debate is exhausted.

Mr. HUDDLESTON. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Minnesota [Mr. SMITH].

Mr. FLOOD. Mr. Chairman, I would like to ask unanimous consent that the gentleman from New York [Mr. DEMPSEY] may be permitted to offer an amendment. I make the motion that all debate on this paragraph and amendments thereto be closed.

Mr. HUDDLESTON. And I move to amend that motion by adding "after three amendments have been offered to it," if gentlemen desire to offer so many.

Mr. ROGERS. That is in addition to the one now pending.

Mr. SMITH of Minnesota. What section are we talking about?

Mr. FLOOD. Paragraph 1 of section 2.

Mr. HUMPHREYS of Mississippi. Mr. Chairman, I want to say to the chairman of the committee that I have an amendment that I would like to offer to that paragraph.

Mr. FLOOD. And I would like to have the amendment offered.



Mr. HUMPHREYS of Mississippi. I do not want to offer it unless I can have five minutes to debate it.

Mr. GARDNER. Mr. Chairman, I make the point of order that the motion to close debate is not debatable.

The CHAIRMAN. The gentleman is correct.

Mr. SMITH of Minnesota. Mr. Chairman, what has become of my motion to strike out the last two words?

The CHAIRMAN. The Chair will state that that will be put after the motion of the gentleman from Virginia is disposed of. The gentleman from Virginia moves to close debate.

Mr. HUDDLESTON. But, Mr. Chairman, I moved to amend that motion.

Mr. HUMPHREYS of Mississippi. Mr. Chairman, may I make a unanimous request at this time?

The CHAIRMAN. What is the gentleman's request?

Mr. HUMPHREYS of Mississippi. I have an amendment I would like to offer to the paragraph, and I want five minutes to discuss it in.

The CHAIRMAN. Does the gentleman make that as a motion?

Mr. HUMPHREYS of Mississippi. No; I make it as a unanimous request.

The CHAIRMAN. The gentleman from Mississippi asks unanimous consent that without regard to the motion made by the gentleman from Virginia [Mr. Flood] that he shall have five minutes to submit an amendment and discuss the same.

Mr. HUDDLESTON. I wish to amend that by adding five minutes additional.

Mr. MANN. Mr. Chairman, I demand the regular order.

The CHAIRMAN. The gentleman from Alabama will send up his amendment to the amendment of the gentleman from Virginia. The Clerk will report it.

The Clerk read as follows:

Mr. HUDDLESTON moves to amend the motion of Mr. Flood by adding to it "after three additional amendments have been offered, and debate had thereon."

Mr. MANN. Mr. Chairman, while I do not think that amendment is in order, I do not make the point of order.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Alabama.

The question was taken; and on a division (demanded by Mr. HUDDLESTON) there were—ayes 9, noes 56.

Mr. HUDDLESTON. Mr. Chairman, I demand tellers, and pending that I make the point of order that there is no quorum present.

The CHAIRMAN. The Chair will count. [After counting.] One hundred and ten Members present, a quorum. The gentleman demands tellers.

Tellers were refused.

So the amendment to the motion of the gentleman from Virginia was rejected.

The CHAIRMAN. The question now is on the motion of the gentleman from Virginia to close debate.

Mr. HUDDLESTON. Mr. Chairman, I move to amend that motion by inserting the words "after 10 minutes."

The CHAIRMAN. The question is on the amendment of the gentleman from Alabama.

The question was taken; and on a division (demanded by Mr. HUDDLESTON) there were—ayes 11, noes 90.

So the amendment to the motion of the gentleman from Virginia was rejected.

Mr. HUDDLESTON. Mr. Chairman, I offer to amend the motion by providing that the debate shall close after five minutes, which time shall be used by the gentleman from Massachusetts [Mr. Rogers].

The CHAIRMAN. The question is on the amendment of the gentleman from Alabama to the motion of the gentleman from Virginia.

The question was taken, and the amendment was rejected.

The CHAIRMAN. The question now is on the motion of the gentleman from Virginia to close debate.

The question was taken; and on a division (demanded by Mr. HUDDLESTON) there were—ayes 70, noes 10.

So the motion was agreed to.

The CHAIRMAN. The question now is on the motion of the gentleman from Minnesota [Mr. Smith] to strike out the last two words.

The question was taken, and the Chair announced that the motion was agreed to.

The CHAIRMAN. The Clerk will report the amendment of the gentleman from Massachusetts [Mr. Rogers].

The Clerk again reported the amendment offered by the gentleman from Massachusetts [Mr. Rogers].

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Massachusetts.

Mr. HUDDLESTON. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. HUDDLESTON. Do I understand the last two words were stricken out?

The CHAIRMAN. Yes.

Mr. HUDDLESTON. Then I move to amend the amendment by inserting at the end of it the words "may stipulate."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alabama.

Mr. GARDNER. Mr. Chairman, I ask that the Clerk report the amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend the amendment by striking out the last two words, "shall stipulate," and inserting the words "may stipulate."

Mr. HUDDLESTON. Mr. Chairman, a parliamentary inquiry. That does not state the situation correctly. Those two words, "shall stipulate," were stricken out on the motion of the gentleman from Minnesota [Mr. Smith].

The CHAIRMAN. Oh, no; the motion of the gentleman from Minnesota was voted down.

Mr. HUDDLESTON. The Chair stated that it was agreed to.

The CHAIRMAN. If the Chair did so state, it was an inadvertent statement. The amendment was rejected.

Mr. HUDDLESTON. I withdraw my amendment.

The CHAIRMAN. The question is on the amendment of the gentleman from Massachusetts [Mr. Rogers].

The question was taken; and on a division (demanded by Mr. ROGERS) there were—ayes 24, noes 42.

So the amendment was rejected.

The CHAIRMAN. The Clerk will read.

Mr. HUDDLESTON. Mr. Chairman, I have an amendment that I desire to offer to the paragraph.

The CHAIRMAN. A point of order was made a moment ago with respect to the reading of this bill by sections. What was ascertained with respect to the unanimous-consent agreement?

Mr. FLOOD. Mr. Chairman, on referring to the Record I find the following:

Mr. Flood. I ask unanimous consent that the amendments may be offered by paragraph.

Unanimous consent was given, so that I should think the gentleman would have the right to offer the amendment.

The CHAIRMAN. The gentleman will send up his amendment, which the Clerk will report.

The Clerk read as follows:

Page 3, line 1, after the words "shall be," insert the words "just and reasonable and shall be."

Mr. HUDDLESTON. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. HUDDLESTON. I would like to have the construction of the Chair as to the scope of the motion of the gentleman from Virginia to close debate, which was agreed to.

The CHAIRMAN. The motion to close debate was upon the paragraph and all amendments thereto.

Mr. HUDDLESTON. Does that refer to paragraph No. 2?

The CHAIRMAN. It referred to the paragraph which was under discussion.

Mr. FLOOD. That was paragraph No. 1.

Mr. HUDDLESTON. The paragraph under discussion was the first paragraph of section 2.

The CHAIRMAN. The Chair will say that the motion to close debate related to the first paragraph.

Mr. HUDDLESTON. To section 2?

The CHAIRMAN. Yes.

Mr. HUDDLESTON. Mr. Chairman, in support of the amendment which I have just offered—

Mr. MILLER of Minnesota. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MILLER of Minnesota. Has not debate been exhausted on the amendments to the first paragraph?

The CHAIRMAN. It has. The Chair did not know for what purpose the gentleman from Alabama rose.

Mr. MILLER of Minnesota. I make the point of order that debate is exhausted.

The CHAIRMAN. Debate has been exhausted on all amendments to paragraph 1.

Mr. HUDDLESTON. This is not an amendment to paragraph 1.

Mr. FLOOD. The other paragraph has not yet been read.

Mr. HUDDLESTON. Mr. Chairman, there are a number of paragraphs to section 2.

Mr. MILLER of Minnesota. I make the point of order that the gentleman is not discussing the paragraph.

Mr. HUDDLESTON. I am discussing the point of order.  
Mr. MILLER of Minnesota. I make the point of order that debate is closed.

The CHAIRMAN. The Chair understands that the gentleman from Alabama is propounding a parliamentary inquiry.

Mr. HUDDLESTON. Mr. Chairman, there are a number of paragraphs in section 2. I understand that part of those paragraphs have not been read. I understood debate was closed on the first paragraph in section 2.

The CHAIRMAN. It was.

Mr. HUDDLESTON. Now, my amendment is to the second paragraph of section 2.

Mr. MILLER of Minnesota. Mr. Chairman, I make the point of order it has not been read yet.

The CHAIRMAN. The Chair is advised that the paragraph has not been read.

Mr. HUDDLESTON. The Chair is incorrectly advised.

The CHAIRMAN. The Clerk advises the Chair that all of that paragraph has been read.

Mr. HUDDLESTON. The second paragraph?

The CHAIRMAN. That the paragraph to which the gentleman's amendment is directed comes within the motion already made to close debate.

Mr. HUDDLESTON. Does the Clerk advise the Chair that or is that the Chair's decision?

The CHAIRMAN. That is what the Clerk advises the Chair as to the situation in regard to the reading of the bill.

Mr. SHERLEY. Mr. Chairman, I desire to offer an amendment: On page 2, line 8, strike out the word "first" and insert the words "section 3."

The CHAIRMAN. Did the gentleman from Alabama offer an amendment?

Mr. HUDDLESTON. I did; and it was read and I claimed the right to debate it, which the Chair held I could not have.

The CHAIRMAN. The gentleman has no right to debate because that is covered by the motion of the gentleman from Virginia. The question is on the amendment of the gentleman from Alabama.

The question was taken, and the Chair announced the yeas appeared to have it.

On a division (demanded by Mr. HUDDLESTON) there were—ayes 6, yeas 37.

Mr. HUDDLESTON. Mr. Chairman, I make the point of order there is no quorum present.

The CHAIRMAN. The Chair will count. [After counting.] One hundred and ten Members are present, a quorum.

So the amendment was rejected.

Mr. SHERLEY. Mr. Chairman, I offer an amendment: On page 2, line 8, strike out the word "first" and insert the words "section 3."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, on page 2, line 8, by striking out the word "first" and inserting the words "section 3."

The question was taken, and the Chairman announced the yeas appeared to have it.

On a division (demanded by Mr. HUDDLESTON) there were—ayes 40, yeas 5.

So the amendment was agreed to.

Mr. SMITH of Minnesota. Mr. Chairman, I offer an amendment, which I send to the Clerk's desk.

Mr. HUDDLESTON. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. HUDDLESTON. I sent up an amendment—

The CHAIRMAN. The Chair will recognize the gentleman in a moment. He has recognized the gentleman from Minnesota.

Mr. HUDDLESTON. But I have already sent my amendment up.

The CHAIRMAN. The Chair will say that that does not give his amendment a prior status. The Clerk will report the amendment offered by the gentleman from Minnesota.

The Clerk read as follows:

Amend, on page 3, line 8, after the colon, by inserting: "Provided further, That all Army engineers detailed by the Secretary of War to gather information and make report to the War Department, in reference to the establishment of rates and service, be placed upon the pay roll of the Hydroelectric Trust during the time such engineers are engaged in such work and be dropped from the pay rolls of the United States Government for such period."

Mr. SMITH of Minnesota. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. SMITH of Minnesota. I understood when the chairman of the committee made his request that simply included the paragraph on top of page 2, and I think a number of the other Members thought so. The gentleman from Kentucky [Mr.

SHERLEY] has suggested an amendment to strike out the word "first" and insert the words "section 3," and it seems that was adopted to the second paragraph on page 2. Now, it does seem an amendment of this importance should have an opportunity to be discussed, and if there is any doubt I would ask unanimous consent of the committee to state the reason for the amendment which I have offered.

The CHAIRMAN. The Chair understands the situation from the officer at the desk that the paragraph to which the motion of the gentleman from Virginia applied goes down to the end of line 15, page 3.

Mr. SMITH of Minnesota. Mr. Chairman, I ask unanimous consent to discuss the amendment which I have sent to the Clerk's desk.

Mr. FLOOD and Mr. McARTHUR. Mr. Chairman, I object.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alabama, which the Clerk will report.

The Clerk read as follows:

Amendment by Mr. HUDDLESTON: Page 3, line 14, after the words "actually to," strike out the remainder of the paragraph and insert the following: "use the water diverted for the generation of hydroelectric energy and to sell all such energy, except such as the permittee may require in the operation of its generation works, direct to consumers thereof."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alabama.

The question was taken, and the Chairman announced the yeas seemed to have it.

Mr. HUDDLESTON. Mr. Chairman, I ask for a division.

The committee divided; and there were—ayes 17, yeas 47.

Mr. HUDDLESTON. Mr. Chairman, I ask for tellers.

Tellers were refused.

So the amendment was rejected.

Mr. DEMPSEY. Mr. Chairman, I have sent up an amendment to the Clerk's desk.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from New York.

The Clerk read as follows:

Amend, on page 3, line 3, by striking out all of said line.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York.

The question was taken, and the Chairman announced the yeas seemed to have it.

Mr. DEMPSEY. Mr. Chairman, I ask for a division.

The committee divided; and there were—ayes 34, yeas 26.

Mr. STAFFORD. Mr. Chairman, I ask for tellers.

Tellers were ordered.

The committee proceeded to divide.

Mr. DEMPSEY (while the committee was dividing). Mr. Chairman, I ask unanimous consent to withdraw the amendment.

Mr. HOWARD. Mr. Chairman, I object.

The CHAIRMAN. The gentleman from Georgia objects, and the vote will proceed.

The committee divided; and the tellers [Mr. STAFFORD and Mr. DEMPSEY] reported—ayes 14, yeas 31.

So the amendment was rejected.

The CHAIRMAN. The Clerk will read.

Mr. SMITH of Minnesota. Mr. Chairman, I offer another amendment to paragraph 1.

The CHAIRMAN. The gentleman from Minnesota offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment by Mr. SMITH of Minnesota: Amend, on page 3, line 15, after the word "current," by inserting "to the public."

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Second. No permit shall be granted until such plans and specifications for the structures, canals, and other works constructed, or proposed to be constructed, for the generation of power, together with such drawings of said construction and such map of location as may be required for a full understanding of the subject, have been submitted to the Secretary of War and the Chief of Engineers for their approval, nor until they shall have approved such plans and specifications and the location of such construction; and when the plans and specifications for any such construction have been approved by the Chief of Engineers and the Secretary of War, it shall be unlawful to deviate from such plans and specifications, either before or after completion of the structures, unless the modification of such plans and specifications shall have previously been submitted to and received the approval of the Chief of Engineers and of the Secretary of War.

Third. The permittee shall begin the actual construction of the works and the several parts thereof within one year from the date of issuance of the permit unless that time, for good cause shown, be extended not more than one year by the Secretary of War; and said permittee shall complete said works within two years from the beginning of actual construction unless, for good cause shown, that time be extended not more than two years by the Secretary of War; and



the permittee, after the completion of the works, shall operate the same continuously for the development and transmission of electric current, power, and energy for sale or for other commercial purposes, and to the extent deemed necessary by the Secretary of War and the Chief of Engineers, unless prevented therefrom by unavoidable accident or delay, in which case, upon showing made to that effect, this requirement may be waived by the Secretary of War.

Fourth. The Secretary of War shall specify in each permit granted hereunder the rate of flow per second of the diversion authorized and the efficiency which must be attained with the water used and which shall not be less than 20 horsepower per cubic foot. *Provided*, That the efficiency of use, the method and manner of measuring efficiency of use, the method and manner of measuring diversion, and the method and manner of supervising and inspecting operations under the permit shall be in accordance with the recommendations made by the Chief of Engineers and approved by the Secretary of War: *Provided further*, Whenever it shall appear to the Secretary of War that the diversion of water for power purposes under any permit so issued is not being utilized to its required standard of efficiency as approved by him, or that the power plant as constructed is not sufficient to meet the available flow and the proper degree of practical generation and utilization, or that the public interests are not being properly conserved or protected in the generation, transmission, distribution, use, or sale of power generated from the water diverted it shall be his duty, after giving the parties interested reasonable opportunity to be heard, to notify and order the permittee to make the necessary changes, stating in such notice the changes required to be made, and prescribing in each case a reasonable time in which to make them.

Mr. SMITH of Minnesota. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Minnesota offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment by Mr. SMITH of Minnesota: Amend, on page 4, by striking out all of line 16, after the word "shall," and all of lines 17, 18, 19, 20, 21, 22, and 23 and inserting in lieu thereof the following:

"The permittee, after the completion of the works, shall, to the extent the public may demand current, operate the same continuously, as provided in subsection 4 heretofore, for the development and transmission of electric current, power, and energy for sale for public use and purposes, unless prevented therefrom by unavoidable delay; and the failure on the part of the permittee to comply with the foregoing conditions and requirements shall be deemed a violation of the provisions of this act."

Mr. FLOOD. Mr. Chairman, I rise to a parliamentary inquiry. The committee, by unanimous consent, agreed to consider this bill by paragraphs, and not by sections. Is it not too late to offer an amendment to this paragraph?

The CHAIRMAN. The Chair understood that it was an agreement formerly made to read by paragraphs, and that amendments could be offered to the different paragraphs.

Mr. BURNETT. As read.

The CHAIRMAN. All has been read now, as the Chair understands it, down to section 3. The gentleman from Minnesota [Mr. SMITH] has offered an amendment.

Mr. FLOOD. We have read to section 3. And my inquiry is if amendments are not limited to paragraph 4 of section 2 under that unanimous-consent agreement?

The CHAIRMAN. The Chair would not so construe it. He thinks amendments may, under this agreement, be offered to the second, third, and fourth.

Mr. STAFFORD. Mr. Chairman, a parliamentary inquiry. I find on page 2186 of the RECORD, containing the proceedings of the last time this bill was under consideration, that the following took place:

The CHAIRMAN. The Clerk has not finished reading the section.

Mr. SHERLEY. Mr. Chairman, a parliamentary inquiry. I would like to inquire whether it is not in order to offer amendments to the various paragraphs of the bill without regard to the section? Otherwise we are going to be required to go through three or four pages dealing with different matters without being able to amend, and I suggest that it will make a rather inconvenient consideration of the bill.

The CHAIRMAN. The rule for the consideration of a bill like this is to consider it by sections. We consider appropriation bills by paragraphs.

Mr. FLOOD. Mr. Chairman, I ask unanimous consent that the amendments may be offered by paragraphs.

Mr. DEMPSEY. I will ask the gentleman from Virginia if it may not be understood that in that we have the right reserved to offer an amendment to the first paragraph. We are on the second.

Mr. FLOOD. Yes.

The CHAIRMAN. The rule is that appropriation bills are read by paragraphs and the others by sections. The gentleman from Virginia asks unanimous consent that this bill be read by paragraphs.

Mr. STAFFORD. With a supplemental provision that amendments may be in order to the first paragraph, which has already been read.

The CHAIRMAN. With the understanding that amendments may be in order to the first paragraph, which has already been read. Is there objection?

There was no objection.

So I take it that there is no question but that consent was obtained to consider this bill by paragraphs.

The CHAIRMAN. The Chair has for the first time been apprised of what the understanding was. After inspecting it, the Chair thinks that it should be considered by paragraphs.

Mr. STAFFORD. We have been proceeding under an erroneous impression since the reading down to line 15, page 3, and I think, in view of the misapprehension of some of the Members,

there should be some opportunity to consider these paragraphs by paragraphs and not have the gentleman foreclose the right of offering amendments to the paragraphs.

Mr. MANN. Mr. Chairman, I ask unanimous consent that the gentleman from Minnesota [Mr. SMITH] have leave to offer the amendment that he proposes.

Mr. MILLER of Minnesota. Reserving the right to object, how many amendments? Let us find out how many.

Mr. SMITH of Minnesota. In reply to that, has the time arrived in this House that a gentleman can not offer amendments to the bill?

Mr. MILLER of Minnesota. If he offers them in good faith, but if he offers them for the purpose of filibustering, no.

Mr. McARTHUR. Mr. Chairman, I object.

Mr. LONGWORTH. I did not understand from the reading of the RECORD that unanimous consent had actually been given.

The CHAIRMAN. I think it was granted.

Mr. STAFFORD. I read, Mr. Chairman, that the Chairman stated there was no objection.

The CHAIRMAN. The Chair understood it that way.

Mr. FLOOD. There was unanimous consent undoubtedly.

Mr. LINTHICUM. Will the gentleman from Wisconsin [Mr. STAFFORD] yield?

Mr. STAFFORD. I yield.

Mr. LINTHICUM. I want to say to the gentleman that we have not been proceeding under any erroneous construction. The gentleman from Virginia stated that a unanimous-consent agreement had been agreed to.

Mr. MANN. The gentleman from Virginia stated a while ago that he did not know.

Mr. STAFFORD. The gentleman occupying the chair has just said that he was under an erroneous impression.

Mr. LINTHICUM. I do not care what the gentleman said.

Mr. STAFFORD. It is only fair that the gentleman have the right to offer an amendment.

Mr. FLOOD. I hope the gentleman will not be cut off from his right of offering an amendment at the proper time. I propose to limit debate on the three paragraphs and the amendments by offering a motion to limit debate.

Mr. McARTHUR. Mr. Chairman, I withdraw my objection.

The CHAIRMAN. The question is on the request for unanimous consent made by the gentleman from Illinois [Mr. MANN]. Is there objection? [After a pause.] The Chair hears none, and the gentleman from Minnesota [Mr. SMITH] is recognized.

Mr. SMITH of Minnesota. Mr. Chairman, my purpose in offering this amendment is to limit the discretionary power of the Secretary of War. I think just as much of the Secretary of War as any Member on this floor; it is the principle involved and not the man. But I do believe that in enacting legislation we should do it with some definiteness, and not leave it for the Secretary of War or any officer of this Government to determine what the legislation shall be.

The portion of the bill which I ask to amend is as follows:

The permittee, after the completion of the works, shall operate the same continuously for the development and transmission of electric current, power, and energy for sale or for other commercial purposes, and to the extent deemed necessary by the Secretary of War and the Chief of Engineers, unless prevented therefrom by unavoidable accident or delay, in which case, upon showing made to that effect, this requirement may be waived by the Secretary of War.

Now, I contend in all seriousness and fairness that the Secretary of War should not be the sole judge in every case; that we can define, as my amendment does, that this power should be used to its full extent so long as there is a public demand for it.

Mr. McARTHUR. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Minnesota. Yes.

Mr. McARTHUR. Is it not the purpose of the gentleman's amendment to make public-service concerns, such as these cities and towns, purchasers of this power?

Mr. SMITH of Minnesota. Oh, no. The gentleman misunderstands it. There has been so much misunderstanding to-day and so little thought given to this important question that I am not at all surprised at my friend from Oregon. Not at all. He is pardonable. I have no purpose in offering this amendment except to get the best legislation we can get. I am just as much in favor of seeing Niagara Falls developed and seeing the companies there get this power as the men who bring in this bill, for that is their purpose, although they will not tell us what the purpose is. They seem to be afraid to trust us with the facts, as is evidenced by their bill, all of which makes me very suspicious of just what the Secretary of War will do when he gets the authority to give the companies a new permit. One would imagine that some sort of an understanding has been arrived at. If not, why not put a preferential clause in the bill?

Mr. FLOOD. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Minnesota. Yes.



Mr. FLOOD. What is the gentleman's statement?

Mr. SMITH of Minnesota. My statement is that the gentlemen who bring in this bill know that the purpose of the legislation is to give the two hydroelectric concerns at Niagara Falls the right to use the additional 4,200 cubic feet of water.

Mr. FLOOD. I can answer the gentleman.

Mr. SMITH of Minnesota. No; I decline to yield.

Mr. PARKER of New York. Mr. Chairman, will the gentleman yield there?

The CHAIRMAN. Does the gentleman from Minnesota yield to the gentleman from New York?

Mr. SMITH of Minnesota. No; I can not yield now. I believe this bill ought to carry the preferential right, giving these companies the right to take that power under the law that we pass to-day. Why? Let us be fair. Let us come out of the woods and say that we are enacting this legislation for those companies if they comply with our conditions. But let us make those conditions fair and reasonable to the public.

All that you have done in this bill and all that you have apparently tried to do, whether you intend to do so or not, is to turn over the right to use this 4,200 cubic feet of water to the Secretary of War, to give it to whomsoever he sees fit; not only to give it to a particular grantee, but after the grantee has been given the right he may run it as the Secretary of War pleases, in total disregard of the commission of the State of New York or any other State.

This bill deserves consideration. I take issue with any man who says I am here filibustering against this bill. I am not. I want to see those companies get that power, but under such safeguards and regulations as will protect the rights of the public.

In the past I have tried to get legislation that would give the State of Minnesota and the Twin Cities a preferential right to secure the power at the high dam between the cities, and a number of the Members of this House, especially on the Republican side, who were opposed to the Twin Cities getting this preferential right, are to-day insisting that this bill be passed without any time being given for its consideration. Of course, the bill itself contains no preferential clause, but the Secretary of War is given the right to grant this power to the present corporations. This may serve as an excuse for the inconsistency of my distinguished colleagues that are so anxious that this bill be passed at once without debate or amendment.

My present attitude is, at least, consistent with my former position, as I am in favor of giving to these two power companies the preferential right to get this additional water. They have invested their money. They have equities there. The State of New York has equities there. And do you suppose that we, as sensible men, are going to take that away from them without giving them an opportunity to bid for this power? What is there in this bill that requires the Secretary of War to sell this power to the highest bidder and for the best interest of the United States? Not a single line. Yet a number of the Members who are supporting it insist that other power bills that passed this House must contain a provision that the Secretary of War must grant the permit to the party that would make the highest bid for it, or, in other words, pay the most money. Where are these great friends of the public to-day? What has become of their conservation convictions?

Mr. HUDDLESTON. Mr. Chairman, I rise to oppose the amendment.

Mr. SMITH of Minnesota. Mr. Chairman, I ask for five minutes more.

Mr. FLOOD. I object, Mr. Chairman.

Mr. HUDDLESTON. Mr. Chairman, I rise to oppose the amendment.

Mr. PARKER of New York. Mr. Chairman—

The CHAIRMAN. Does the gentleman from Virginia desire recognition?

Mr. FLOOD. I desire a gentleman over there to have recognition in my place.

The CHAIRMAN. Is the gentleman from New York [Mr. PARKER] a member of the committee?

Mr. PARKER of New York. No.

The CHAIRMAN. Then the gentleman from Alabama [Mr. HUDDLESTON], who is a member of the committee, will be recognized.

Mr. HUDDLESTON. Mr. Chairman, I applaud the gentleman from Minnesota [Mr. SMITH] for what he has said in behalf of his amendment. I applaud him. It is sound. The objection I am making to this bill is that it ought not to be constructed for the benefit of those two concerns. I dissent, however, from what the gentleman from Minnesota says, that we ought to legislate for their benefit.

Now, I say this bill, whether so intended or not, is so constructed that nobody else can get in under it except those two concerns. If we are going to fix it in that fashion, then we ought to make it just as strong on them as possible. I am not willing to turn the people of western New York over to the mercies of these two concerns. I want somebody, anybody I can get, to stand between them and this system that has been going on up there for years.

Some gentleman may think that the Public Service Commission of the State of New York is amply able to protect the people and to protect that State, but I dissent from that view.

I have before me statements made by the Public Service Commission of the State of New York that throw a considerable light on this controversy, and I regret the disposition that has been shown here that cuts me off from showing the germane facts to this House.

The Public Service Commission of the State of New York has not been able to protect the citizens of western New York. There is some defect there in the commission or in the laws under which they are acting. For instance, Mr. Chairman, they do not know anything about what the Hydraulic Power Co. is doing.

The gentleman from Wisconsin called the attention of the House to the fact that the commission has no information as to what is being done with half of the power that is being generated at Niagara Falls on the American side; and I want to say, Mr. Chairman, that the public service commission in New York has not got the information with reference to the Niagara Falls Power Co. and they have not got it as to the Hydraulic Power Co. I have a letter here from the chairman of the commission, and I want to call attention to some of the statements that he makes. He says that the impression is general that the commission has investigated the situation at Niagara Falls, but that all they have done is to investigate the charges in Buffalo of the Buffalo General Electric Co. That is all. They have gone into it, and that is all they know about. They have some general information which the chairman is unable to say whether it is accurate or otherwise.

They have had no hearings on the general situation. They have just simply collected information in a general way, and do not know with any certainty how much power is being generated by either one of these concerns at Niagara Falls, nor what they are charging for it, nor to whom they are selling it, nor whether they are discriminating, nor what they are doing. I am here, Mr. Chairman, to say that they are overcharging the people. I am here to say that there is discrimination. They are playing their favorites among the consumers of this power, and they will continue to do that unless we step in and stop it.

Mr. FLOOD. Mr. Chairman, I am surprised at the gentleman from Alabama [Mr. HUDDLESTON] complaining that he is being cut off from an opportunity to debate this bill. By dilatory tactics and filibustering methods to-day, he has killed one-half of the time that we have been in session. If he had really desired to discuss the merits of this bill, he would have abstained from these tactics, and would have had all the opportunity he wanted to discuss every line of this bill and every amendment that is offered in connection with it. I think it comes with bad grace from the gentleman to complain of lack of time. [Applause.]

Mr. HUDDLESTON. Mr. Chairman, can the gentleman point to anything that looked like filibustering until the gentleman had declined to give me anything like a reasonable time to discuss the bill?

Mr. FLOOD. Mr. Chairman, the gentleman raised the point of no quorum before he went into the Committee of the Whole for the consideration of the bill this morning.

Mr. HUDDLESTON. Certainly I did. This is an important bill, and we ought to have the Members here to consider it.

Mr. FLOOD. I refuse to yield any further. I have answered the gentleman's question. He has done nothing but filibuster, and the gentleman with other members of the committee has considered this bill for weeks and weeks. I resent the suggestion that this bill is framed in the interest of two power companies at Niagara Falls. I realize, as every man realizes, that no legislation can be enacted disposing of the Niagara River water that does not give an advantage to the existing companies, but this bill avoids that as far as it is possible to do so; it guards the interest of the Government and the consumers of power.

Mr. HUDDLESTON. Mr. Chairman, I rise to the point of order that debate has been exhausted.

Mr. FLOOD. Debate has not been exhausted.

The CHAIRMAN. Debate, so far as this amendment is concerned, is exhausted.



Mr. MILLER of Minnesota. I ask unanimous consent that the gentleman may proceed for five minutes.

Mr. PARKER of New York. Reserving the right to object—I want to discuss my amendment for five minutes.

Mr. HUDDLESTON. Reserving the right to object, I should like to know when we are to have some time to debate this measure?

Mr. MILLER of Minnesota. How much time does the gentleman think he ought to have to debate this measure?

Mr. HUDDLESTON. I think we ought to have reasonable time for debate. If it is the policy of the chairman of the committee to cut off debate at the earliest possible moment, I shall certainly object.

Mr. FLOOD. It is the policy of the chairman to move to cut off unnecessary and dilatory debate; this I have been trying to do all day.

Mr. HUDDLESTON. I object.

Mr. FLOOD. Wait a minute, now. I have the floor. I object to being interrupted by the gentleman every time I say a word.

Mr. HUDDLESTON. Mr. Chairman, I call for the regular order.

Mr. FLOOD. The gentleman has asked me a question, and I have a right to answer it. The gentleman asked the question whether it was my purpose to cut off debate. I will make a motion to cut off all unnecessary and dilatory debate, and if those motions cut off the gentleman from Alabama, I can not help it. So far as I am concerned, I do not make any request for any time for myself.

Mr. HUDDLESTON. Mr. Chairman, in view of the vague answer of the gentleman, I must object.

Mr. MILLER of Minnesota. I move, as a substitute for the amendment offered by the gentleman from Minnesota, to strike out the word "second," in line 16, page 3, and to insert in lieu thereof "section 4," and I want to be heard on that.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, on page 3, in line 16, by striking out the word "second" and inserting the words "section 4."

The CHAIRMAN. The gentleman from Minnesota moves an amendment to the amendment.

Mr. MANN. Mr. Chairman, I make the point of order that that is not a substitute. It has no relation to it at all. The Clerk will correct the numbers of the sections.

Mr. MILLER of Minnesota. The first section has been changed.

Mr. MANN. The Clerk will change the other sections when he engrosses the bill, without any action by the House.

Mr. MILLER of Minnesota. Mr. Chairman, I have not with me the amendment offered by the gentleman—

Mr. MANN. I make the point of order that the gentleman's amendment is not in order.

The CHAIRMAN. The point of order is sustained.

Mr. MILLER of Minnesota. I want to speak five minutes. That is what I offered it for.

Mr. STAFFORD. I ask unanimous consent that the gentleman from Minnesota [Mr. MILLER] may proceed for five minutes.

Mr. RAGSDALE. Mr. Chairman, I ask unanimous consent that the gentleman from Minnesota, a member of this committee, may be allowed to address the House for five minutes.

Mr. PARKER of New York. Mr. Chairman—

The CHAIRMAN. The gentleman from Wisconsin [Mr. STAFFORD] asks unanimous consent that the gentleman from Minnesota have five minutes in which to address the committee. Is there objection?

Mr. LINTHICUM. I object.

Mr. RAGSDALE. Then, Mr. Chairman, I make the point of no quorum.

The CHAIRMAN. The gentleman from South Carolina makes the point of no quorum. The Chair will count.

Mr. MOORE of Pennsylvania. I make the point that that point of order is dilatory.

The CHAIRMAN. The question of no quorum is never dilatory. A quorum is necessary in order to do business.

Mr. GARDNER. The Speaker being satisfied that a quorum was present and that the point of no quorum was dilatory, declined to entertain it. There are a great many decisions to that effect. Very likely the Chair is not satisfied; but often the point of no quorum has been held to be dilatory if the Chair was satisfied that a quorum was present.

The CHAIRMAN. The Chair will say in passing on the point of order of the gentleman from Massachusetts that if the Chair was satisfied that there was a quorum present he would so announce without counting; but at the time the point was

made by the gentleman from South Carolina the Chair was not satisfied that a quorum was present. Some Members have come in since the point of order was made, and it may be that there is now a quorum present; but the Chair is not certain that such is the case; hence a count is proper. [After counting.] One hundred and fifteen Members present—a quorum.

Mr. PARKER of New York. Mr. Chairman, I move to strike out the last word. The gentleman from Alabama [Mr. HUDDLESTON] has read an extract from a letter from Mr. Van Santvoord, chairman of the second division of the Public Service Commission of New York State. He has not read the whole letter. I hold in my hand a letter from the electrical expert for the second division of the Public Service Commission of the State of New York, which I shall introduce in the Record as a part of my remarks, and it closes in this way:

The Cline bill disposes of any such claim and clears the way for effective action by the commission.

Now, that is the letter, and, as I say, I do not wish to take the time to read it now or give the gentleman's name, but I will tell you his name.

Mr. HUDDLESTON. Will the gentleman yield?

Mr. PARKER of New York. No; I have not the time, and the gentleman would not yield to me. The letter is from an expert. The gentleman would lead us to believe that not one single investigation has been made as to the rates at Niagara Falls. He states that the hydraulic company sells 60 per cent to private concerns. That is true. There is the largest chemical electric proposition anywhere in this country located at Niagara Falls, and all the electrical energy that is developed is subject to the public-service commission. The gentleman speaks about the General Electric Co. at Buffalo. I think the gentleman made the statement that the Niagara Falls Power Co. would not do their own milking. Allow me to quote from a report of the public-service commission a statement as to who owns the stock.

I come from a place as far from Niagara Falls, practically, as does the gentleman from Alabama. I have not one single person in the district that I have the honor to represent who uses that power; but, nevertheless, I can not stand here and hear the gentleman from Alabama say, by implication at least, that the Public Service Commission of the State of New York is not effective and is not efficient. I do not see how the gentleman is going to get any Member to follow his idea that we can employ men for \$6,500 a year for which we in New York State pay \$15,000. The gentleman can not believe for a moment that you can hire a better or more competent man for \$6,500 than you can for \$15,000. Now, the gentleman to whom the gentleman from Alabama refers, Mr. Van Santvoord, is a personal friend of mine; he is a Democrat and belongs to the gentleman's own political faith, and is as fine a gentleman as I know.

Mr. HUDDLESTON. I want to call the gentleman's attention to paragraph—

Mr. PARKER of New York. Mr. Chairman, I decline to yield. Now, I wish to read from a case decided April 2, 1913, in which you find this language:

It does not appear of record that the Niagara Falls Power Co., even directly or indirectly, has any stock holdings in the General Electric of Buffalo. Whether it really owns stock standing in the name of private individuals is not known. There has been no list of stockholders that indicates that this is the case.

I am reading from an official report of the Public Service Commission of the State of New York. The gentleman from Alabama would lead us to believe that no rate had ever been reduced in the State of New York.

Mr. HUDDLESTON. The gentleman is mistaken.

Mr. PARKER of New York. In this same report in 1913 there was a reduction ordered of 28 per cent, and this was taken into court on the theory of confiscation and a general reduction of 19 per cent was ordered.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. PARKER of New York. Mr. Chairman, I ask for five minutes more.

The CHAIRMAN. The gentleman from New York asks that his time be extended five minutes. Is there objection?

Mr. HUDDLESTON. Reserving the right to object, I shall object unless the gentleman allows me to ask him some questions.

Mr. PARKER of New York. I will yield to the gentleman.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. HUDDLESTON. Does not the gentleman think this public-service commission is ineffective when the Hydraulic Power Co. is not under its jurisdiction? Does not the gentleman think there is something radically wrong in the law?



Mr. PARKER of New York. No; I do not. I am thoroughly familiar with the public-service law, because I helped draw it.

Mr. HUDDLESTON. Perhaps that accounts for it. Does the gentleman realize that there is nothing in this bill that will force the Hydraulic Power Co. to generate hydroelectric energy and distribute it at reasonable rates?

Mr. PARKER of New York. In answer to the gentleman, I wish to state that he is right as to the Hydraulic Power Co., but if any of the users of the power failed to complain to the public-service commission as to rates, if they are satisfied, whose business is it except theirs?

Now, another matter, it seems to me very important regarding this bill, and that is that the United States Government, by a great stretch of imagination, assumes control over the water at Niagara Falls. I believe we have control of it; but an attorney general of the State of New York believed that it is absolutely a State proposition. I do not know, however, of one atom of this power that is used in interstate commerce; it is absolutely intrastate, and the gentleman will admit that. The gentleman must admit that as soon as the power is generated it becomes subject to the laws of the State of New York and not to the Federal Government. You can not enact a law that will make it subject to Federal control.

Mr. CLINE. Mr. Chairman, I want to call the attention of the gentleman to this fact, that there can not be a permit issued under this bill to any party or corporation who does not qualify under the public-service laws of the State of New York.

Mr. PARKER of New York. That is in conformity with our State laws. The gentleman talks about monopoly. Let me point out to the gentleman that the Government regulation fosters monopoly. You can not get away from it. If you are going to regulate rates, you have got to foster monopoly, because there are two things that govern prices—one is competition and the other is regulation.

If you say that you have regulation, by the same token you say that you will protect from undue competition. That has been fought out in our State many times. For instance, you say grant this to some other company. Before they can distribute that they would have to go to the public-service commission of the State of New York and get a certificate of public necessity. You say that the Hydraulic Power Co. ought to be under this commission. I agree with you. They should be under the public-service commission's jurisdiction. The Niagara Falls Power Co. is.

Mr. FLOOD. This bill puts the Hydraulic Power Co. under that commission.

Mr. PARKER of New York. Yes. I agree with the gentleman thoroughly. They should be. The public-service commission knows how much it costs to generate a horsepower. They know whether prices charged to the 60 per cent which are under their jurisdiction are reasonable or not. The gentleman fails to recognize that the State of New York was the first big State in the Union to try to regulate public-service corporations in a comprehensive way. This is practically a New York State proposition, except that the United States has control of the water. [Applause.]

The letter to which I made reference is from an engineer of the public-service commission of the second district of the State of New York, and I quote from it the following:

#### PROPOSED LEGISLATION REGARDING NIAGARA WATER POWER.

##### 1. THE QUESTION INVOLVED IS GOVERNMENT OWNERSHIP V. PRIVATE OWNERSHIP.

The fundamental difference which exists between the schemes proposed is not what measure of control should be exercised over the power, nor is it whether the control should be exercised by Federal or State Governments. The real difference is between a continuation of private ownership, with extensive and adequate regulation, and embarkation in a scheme in which private capital plays no part, but all of the canals, tunnels, power houses, machinery, transmission lines, substations, etc., are owned by the Government, paid for by Government bonds, and operated by the Government as a business venture.

##### 2. GOVERNMENT OWNERSHIP IS NOT YET ADVISABLE.

The sentiment of the State and Nation is opposed to a general plunge into Government ownership. It is not necessary at this juncture to discuss the abstract principle of whether Government ownership of some forms of business is or is not advisable. It is enough to say that until our municipalities and States can achieve efficient and economic building of roads, operation of charitable institutions, and management of ordinary governmental activities it will not be time to embark into projects which are less generally understood and more subject to disaster in inexperienced or inefficient hands. The generation, transmission, and distribution of electricity are highly technical problems, and if governmental ownership is to come at all it would seem that they should be among the very last to be taken up.

There was a few years ago some agitation in New York State for State development of water power, but this has been entirely abandoned, even in the case of powers which are now actually owned by the State. New York is definitely committed to the policy of private ownership, with effective governmental regulation, except that municipalities are permitted to own their utilities if they choose. The number of

those who have chosen to do so is not great, and the average results obtained by them are not such as to encourage extensions of the experiment.

The hydroelectric commission of Ontario is the example usually pointed out as conspicuously illustrating the possibility of success in such ventures. It is too early to herald the Ontario scheme as a success. It may be that by destroying private property rights, causing loss of tax revenue, and by securing partial support through direct appropriations supplied by general taxes, the commission has been able to reduce the rates for electricity below those which have been found possible by sound and sane business enterprises. Even the question of how much the rates have been reduced is one which requires careful analysis. It is not fair to compare the kilowatt-hour charge in a rate where a charge based on room area must be paid in addition with the primary kilowatt-hour charge in the case of a rate like that which exists in Buffalo, where the initial rate is comparatively high, as it should be, until the consumer has paid part of the carrying charges on the investment required to serve him, but where a reasonable use of electricity rapidly causes the rate to fall, enabling those who really desire to use current for purposes other than lighting to get it for 1½ cents a kilowatt hour. It is not time to copy the Ontario experiment until a reasonable interval has shown whether adequate provision has been made for depreciation and obsolescence of the property so recently installed, whether the proposition is on a sound and continuing financial basis, and whether the municipalities who are obliged to pay the wholesale rate imposed by the commission, and charge the retail rate fixed by the commission, will indefinitely continue to make good through taxes any deficits which this method may cause.

##### 3. THERE IS NO ADVANTAGE IN GOVERNMENT OWNERSHIP.

The Cline bill expressly prohibits capitalization of the right to divert the water, and specifies that it shall not be assigned value in any tax, rate, or other proceeding. This means that under efficient regulation the companies diverting the water will be limited to a revenue which will reimburse them for reasonable operating expenses and pay a fair percentage on the capital actually invested in physical property. It is true that ordinarily the Government can secure capital at a slightly lower rate of interest than a private business enterprise, although this difference will naturally become less as the Government embarks more into general business undertakings. It will hardly be questioned, however, that the private enterprise can considerably distance the public one in efficiency and economy of operation, and the advantage thus gained will usually more than offset the difference in interest rate.

The proponents of Government ownership will question the success of governmental regulation. It is certainly quite as likely that dishonesty and inefficiency will be encountered in the management of a Government-owned business as in governmental regulation of private business.

##### 4. THE RIGHTS OF EXISTING COMPANIES SHOULD BE RECOGNIZED.

It is all very well to declaim against the companies which have developed the power from Niagara water and sold it to those who found it useful. The investment in this business seems now to be so wise and profitable that the uncertainty and experimental nature of the development in its early stages is hardly recognized. Engineers not yet past middle age, who participated in the first installation of the Niagara Falls Power Co., find it difficult to remember or to believe that there was grave question among all engineers at that time as to whether two generators could be operated simultaneously on one line, and whether power could be successfully transmitted at 11,000 volts from Niagara Falls to Buffalo.

The companies who bravely faced the doubts of those days and invested their money with faith in the future have developed an art, the progress of which has surprised even themselves, and the power which they have made available has been of the greatest value to the State and to the Nation. They have proceeded under explicit authorizations of the State and Federal Governments. They have violated no laws and have been amenable to every regulation imposed upon them. The property which they possess is theirs by every principle of law and justice, and should not be made valueless by an unreasonable deprivation of the water which alone makes it productive. If these companies have made money, that constitutes no crime for which they should now be punished by confiscation of their property. How many of those who loudly proclaim these people as robbers would not in like situation have made the most of the opportunities presented for building up their personal fortunes?

All of this is not to say that inefficiency should be allowed. The public right to require that every foot of water which is diverted from the Niagara River be utilized to the best possible advantage is paramount to any private interest. The Cline bill, with its requirements that at least 20 horsepower must be developed per cubic foot-second (about all that can be obtained without going down below the rapids) takes care of this feature and will oblige the Niagara Falls Power Co. to abandon practically all its present physical development.

##### 5. GENERAL CONTROL OF THE DIVERSION BELONGS TO THE FEDERAL GOVERNMENT.

In the first instance, the total amount of water which may be diverted in this country is fixed by international treaty, and it naturally devolves upon the Federal Government to see that the terms of this treaty are carried out. The Niagara River is a navigable stream, and it is incumbent upon the Federal Government to see that any diversion of water for power purposes be only in such amount and in such manner that navigation will not be interfered with. The scenic beauty of Niagara Falls must be conceded to be a national asset and the Federal Government is within its rights and duties in preserving that feature.

The persons or corporations to whom the water rights should be granted might perhaps be more properly selected by the State, but as the grants must be made by the Federal Government, and if necessary, be revoked by it, it would introduce complications to have the grantees selected by a different authority. This matter is not of much consequence, as the power will be developed by some one in any case and the ownership of any property is likely to change from time to time.

##### 6. CONTROL OF THE DISTRIBUTION AND PRICE SHOULD BELONG TO THE STATE.

Regardless of the agency by which the power is developed, and unless a great deal more is generated than can now be taken under treaty restrictions, the power will be used in New York State, because New York State is there to take it and no other State is. The Federal Government has no more real interest in this question than in the case of a water power located in the interior of the State, on a non-navigable stream.



The Federal Government has no suitable machinery established for regulation of such business. The Federal Government should not extend its activities into fields which can be as well covered by the individual States, or by smaller subdivisions.

The State is vitally interested in this subject. The prosperity of its people depends to a material extent upon the availability of power in adequate quantities and at proper prices. The general problem involves the generation of power at other water powers and by steam plants, and its distribution and supply in all the various communities of the State. A large part of this work will in any event be supervised by the State and could not possibly come under Federal regulation. The power from Niagara is only a portion of the whole, and the problems in connection therewith dovetail into others which make up the whole. In an particular community power may be received from several sources, one of which is Niagara. To obtain efficient and satisfactory regulation it is essential that it be in the hands of one authority and not divided. It is fully as important that the treatment be uniform and comprehensive as that it be honest and intelligent.

The State has already developed the machinery by which such regulation may be, and is, carried out, and the officers now exercising those duties have become trained and efficient in the problems of governmental control.

#### 7. THE STATE CAN BE DEPENDED UPON TO REGULATE.

This proposition requires little argument. New York was one of the first States in the Union to take up comprehensively the regulation of public utilities. Its laws and the organization and work of its commissions have served as models for many of the other States.

#### 5. THE PUBLIC SERVICE COMMISSION IS COMPETENT AND HONEST.

The easiest thing in the world is to direct criticism against public officers. It is simple justice to remember that the problems which faced the commission at its organization were vast and new. In practically every phase of its duties the way had to be sought out and blazed by the commission. The amount of work involved in organizing the commission and establishing its methods can hardly be appreciated.

The commission has not always done right; the men appointed to it have not always been the best men; no one will defend all of its acts or say that there is no room for improvement, but the people of New York State feel that it has done a good work and have confidence in it. No one is hardy enough to suggest that the commission should be abolished and there are few who desire changes of any importance. Senator Thompson has something to say in the way of general criticism (more particularly of the New York City Commission), but it is understood that the legislation to be proposed by his committee is mostly in the line of giving more power to the commission in order that it may be unhampered in its work.

The commission has done a great work in requiring proper accounting, supervising the issuance of securities, and enforcing adequate service. In the regulation of rates, two instances will be sufficient to indicate the nature of the work done. In Buffalo a thorough investigation was made of the situation concerning all rates for electricity, and the commission fixed uniform and equitable rates applying to all current sold. The rates fixed by the commission result in a reduction to the public in cost of electricity of over \$500,000 per year. These rates were so adjusted as to allow, in addition to operating expenses, only a fair return upon the actual physical property devoted to the business of furnishing electricity. It is, of course, nonsense to compare the rates charged for the current which has been transmitted, transformed, distributed, and delivered in small quantities to the retail consumer, involving losses in transformation and distribution, the investment of large amounts of capital in equipment and facilities, and operating expenses of great magnitude, with the price paid wholesale for vast blocks of high-voltage power at Niagara Falls or at the Buffalo city line.

As a result of the commission's investigation and the rates established by it in New York City, telephone users of that city have secured a benefit amounting to \$5,000,000 annually. Cases of lesser magnitude, but of equal importance to the communities affected, might be cited indefinitely.

The commission is always open to receive complaints from any justified person and never fails to give such complaints careful consideration. Whether the rates for electricity charged by the power companies at Niagara Falls are too high is not a question which can be answered offhand. The commission has never received any complaints from the purchasers of such power, and it is a matter of common knowledge that purchasers are exceedingly eager for such power at the present prices and can not get enough to supply their needs. As a matter of fact, it might have been a difficult matter for the commission to regulate these rates in the past. The power companies were operating under sweeping authorizations from the State and Federal Governments, and there was a serious question as to whether such authorizations would not have been considered in law as vested rights which the commission would have been bound to recognize and assign values to in any rate case. The Cline bill disposes of any such claim and clears the way for effective action by the commission.

#### MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

The committee informally rose; and Mr. Cresser having taken the chair as Speaker pro tempore, a message, in writing, from the President of the United States was communicated to the House of Representatives by Mr. Sharkey, one of his secretaries, who informed the House that the President had, on February 3, 1917, approved and signed bills of the following titles:

H. R. 193. An act to provide for the care and treatment of persons afflicted with leprosy and to prevent the spread of leprosy in the United States; and

H. R. 20209. An act to amend section 276 of an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911.

#### DIVERSION OF WATER OF THE NIAGARA FALLS.

The committee resumed its session.

Mr. AUSTIN. Mr. Chairman, I wish to be recognized in opposition to the amendment offered by the gentleman from Minnesota.

Mr. FLOOD. Mr. Chairman, debate upon that amendment has been exhausted.

Mr. AUSTIN. Then I move to strike out the last two words. I have not addressed the committee to-day.

Mr. FLOOD. I have not been able to express the few sentiments that I have in mind.

Mr. MILLER of Minnesota. Neither have I.

Mr. AUSTIN. I thought I heard the gentleman from Virginia make some talk. Am I recognized? I move to strike out the last two words.

The CHAIRMAN. Objection has been made, the effect of which is that the gentleman will have to address himself to his amendment.

Mr. AUSTIN. I do not want to go into a farce of that kind. I want to discuss the bill.

Mr. CRAMTON. Mr. Chairman, I ask unanimous consent that the gentleman from Tennessee [Mr. AUSTIN] and the gentleman from Virginia [Mr. FLOOD] each have five minutes.

The CHAIRMAN. The gentleman from Michigan asks unanimous consent, in this connection, that the gentleman from Tennessee and the gentleman from Virginia have five minutes each. Is there objection?

Mr. LINTHICUM. Mr. Chairman, I object.

Mr. FLOOD. I object.

Mr. AUSTIN. You will not pass this bill until I have a chance to discuss it.

Mr. FLOOD. That is all right. If the gentleman desires to defeat the bill, let him defeat it. We are all trying here to do the best we can to pass it.

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was rejected.

Mr. HUDDLESTON. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Page 5, line 3, after the word "foot," insert "and which shall be used in the generation of hydroelectric power."

Mr. HUDDLESTON. Mr. Chairman, the concern at Niagara that is using the water at the most efficient head sells only mechanical power. That mechanical power it sells to various associated companies. I am not advised as to its relation with them, but those associates rent from it its generators and transmission lines and supply themselves with power in this fashion.

The gentleman from Virginia [Mr. FLOOD] to the contrary notwithstanding, I have some very important objections to this bill, and some that I think are worthy of consideration. I understand the gentleman from New York [Mr. PARKER] to agree with me that this bill does not prevent the continuance of that situation. He seems to think it is all right. In that I do not agree with him. I think the power at Niagara Falls belongs to the people—his people, if he will. He says it is a New York proposition, and I agree with him that it is to a large extent.

Mr. PARKER of New York. Mr. Chairman, will the gentleman yield?

Mr. HUDDLESTON. In a moment. The trouble about the situation there is that the people are not getting the power. That power is going for the sole benefit of a few industrial concerns in the city of Niagara Falls. I think this power is worth more for domestic use, for lighting homes and doing the everyday things of the consumers, the plain people of western New York, than it is for the manufacture of aluminum, carborundum, and one thing and another.

Mr. PARKER of New York. Mr. Chairman, will the gentleman yield?

Mr. HUDDLESTON. No; I have not the time. If I could get five minutes more, I would yield to the gentleman. These concerns do not have to be at Niagara Falls. The prosperity of New York does not depend upon their being there. They can as well go somewhere far away in the woods. You can make just as good aluminum on the Columbia River as at Niagara Falls. You can make it anywhere in the whole land where there is water power. You do not have to make it right there, where there are teeming millions of people who are reaching out their hands pleading for power at reasonable rates.

The aluminum company and the carborundum company can not afford to go into competition with the people who want to use the power for domestic purposes.

Mr. PARKER of New York. Mr. Chairman, will the gentleman yield?

Mr. HUDDLESTON. No. I do not think we ought to have in view the needs of these industries at Niagara Falls.

They are there, and they can just as well be somewhere else. Let us save this power for the people. Let us see that it is generated into electric current and spread over that whole part of the country so that the mass of the people get some benefit of it. What benefit is it to the people now? A few millionaires conduct some works up there and hire a lot of laborers at as



low wages as they can get them for, and they roll wheelbarrows in and out of their works, and there is really very small benefit to the people. If the people can only get this power, if it can be distributed for legitimate purposes among the small users of western New York, it would be a priceless boon. They would no longer be exploited as they are now by the Buffalo General Electric Co. I wish I had time to show you the figures I have. I have the contracts, I have a statement from the public service commission, but I have not the time to show it to this committee. It is not of enough importance in considering a little bill like this, so the majority, who control the time, seem to think.

Mr. FLOOD. Mr. Chairman, I move that all debate on the other paragraphs of section 2 and all amendments thereto be now closed.

Mr. AUSTIN. I would ask the gentleman to yield me five minutes.

Mr. FLOOD. In five minutes' time, that to be accorded to the gentleman from Tennessee [Mr. AUSTIN].

Mr. SMITH of Minnesota. Mr. Chairman, I wish to ask the chairman of the committee a question. Does that preclude the offering of amendments?

Mr. FLOOD. Oh, no; just debate.

Mr. SMITH of Minnesota. Now, I have an important amendment, which is very short, and it will not take over five minutes, and I ask to have a chance to offer it.

Mr. FLOOD. Then, Mr. Chairman, I ask that all debate on this paragraph end in 10 minutes, 5 minutes to go to the gentleman from Tennessee [Mr. AUSTIN] and 5 minutes to the gentleman from Minnesota [Mr. SMITH].

The CHAIRMAN. The gentleman from Virginia moves that at the expiration of 10 minutes all debate be concluded on this section and all amendments thereto.

Mr. HOWARD. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. HOWARD. Does this include debate on amendments to this section—10 minutes to the entire section and all amendments thereto?

The CHAIRMAN. To the section and all amendments thereto.

The question was taken, and the Chair announced the ayes seemed to have it.

On a division (demanded by Mr. HOWARD) there were—ayes 65, noes 8.

So the motion was agreed to.

Mr. AUSTIN. Mr. Chairman, the gentleman from Alabama [Mr. HUDDLESTON], in discussing this legislation prior to the holidays, when we had the temporary bill up, was asked by me the direct question as to how much the people of the city of Birmingham, Ala., the gentleman's home town, were paying for their electricity, and he said he could not tell and did not know.

Mr. HUDDLESTON. The gentleman is mistaken.

Mr. AUSTIN. I appeal to the Record.

Mr. HUDDLESTON. The gentleman asked what the Alabama Power Co.'s rates were and I said I did not know.

Mr. AUSTIN. I asked what they were paying for electricity supplied from the Coosa River—

Mr. HUDDLESTON. They are not supplying Birmingham.

Mr. AUSTIN (continuing). And the gentleman stated he did not know. To-day he has some figures about the cost of power in New York and Canada. Let me read him some figures as to the cost of power in Birmingham, his own city.

Mr. HUDDLESTON. The gentleman will find it high.

Mr. AUSTIN. "Birmingham, Ala., January 30, 1917. Maximum price for energy, 7½ cents per kilowatt per hour. Minimum price, three-fourths cent per kilowatt per hour. Steam will cost the same. Horsepower is not the unit of measurement in this city. All electricity used here is generated on the Coosa River." I believe the gentleman said it was not generated on the Coosa River.

Mr. HUDDLESTON. No; I did not. Now, if the gentleman will yield—

Mr. AUSTIN. No; the gentleman would not yield to me. I tried three different times when the gentleman had the floor and the gentleman discourteously took me off my feet. I had an engineer figure out the cost of power on these figures. It is \$48.75 per horsepower; that is the minimum, and \$487.50 is the maximum.

I commend to the gentleman his zeal in searching for and investigating the cost of power in the far-off State of New York and a foreign country, but I want to appeal to him to get down and begin business at home in the Birmingham district [applause] and in the city from which he hails, and let him begin his reform there and his work there in the interest of the people who elected him to Congress. [Applause.]

Mr. HUDDLESTON. Will the gentleman yield?

Mr. AUSTIN. No; I will not.

The CHAIRMAN. The gentleman declines to yield.

Mr. AUSTIN. Now, I think this House can depend upon the Representatives from New York [Mr. SMITH], a Democrat from the city of Buffalo, which is taking this power, and the gentleman from the Niagara district [Mr. DEMPSEY], where it is made and used, to look after, care for, and protect the interests of the people who elect them to Congress. [Applause.] They are amenable to and answerable to their constituents, and if the people are being robbed, as the gentleman alleges, the voters of those districts have elected two honorable gentlemen to stand up here and protect their interests and have not commissioned the gentleman from Alabama to be a guardian for them. [Applause.]

Mr. FLOOD. May I call the gentleman's attention to the fact that this measure that we are considering and enacting into law will put these companies under the control of the New York Public Service Commission and that they will be subject to the regulations as to price and other matters of that commission and that now there is no law putting one of them there?

Mr. AUSTIN. Yes. I think the people of the immediate neighborhood in New York, Brooklyn, Niagara, and in Buffalo are just as honest as they are in Birmingham or any other section of this country; and if they have public officials that are recreant to their duty or their interests here or in the Public Service Commission of New York State, they have a right to get rid of them at the ballot box. And I refuse to be persuaded or influenced in the belief expressed by the gentleman from Alabama [Mr. HUDDLESTON] that these gentlemen are doing something wrong in recommending this bill to our favor.

Mr. HUDDLESTON. Mr. Chairman, I ask unanimous consent to have five minutes in which to reply to the lecture of the gentleman.

Mr. MILLER of Minnesota. I object.

Mr. SMITH of Minnesota. Mr. Chairman, I offer an amendment.

The CHAIRMAN. Is it an amendment to the amendment? There is a pending amendment offered by the gentleman from Alabama. Is the gentleman's amendment an amendment to that one?

The question is on the amendment offered by the gentleman from Alabama [Mr. HUDDLESTON].

The question was taken, and the amendment was rejected.

The CHAIRMAN. The gentleman from Minnesota [Mr. SMITH] offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment by Mr. SMITH of Minnesota: Amend, on page 5, line 1, by striking out all of line after the word "and" and all of line 2 and all of line 3 to the word "foot," and inserting in lieu thereof the following: "That the greatest efficiency must be attained with the water used, and a failure on the part of a permittee to comply with this condition shall be deemed a violation of the provisions of this act."

Mr. SMITH of Minnesota. Mr. Chairman, the complaint that comes from Niagara is that the companies that are now using this water are not developing it to its fullest efficiency. There is a head of 208 feet within a short distance of these power plants. By going some 6 or 8 miles a head of 318 feet can be obtained. Now, the Niagara Water Power Co. is using but 135 feet of this 318 feet, and the Hydroelectric Co. is using something more than 135 feet. If this power is going to be turned over to these companies, which is the natural and only result when you give the Secretary of War power to grant it to whomever he sees fit, you are not going to compel these companies to develop this power to its full extent. True, in your bill you provide that the Secretary of War shall specify in each permit granted hereunder the rate of flow per second of the diversion authorized and the efficiency which must be attained with the water used and which shall not be less than 20 horsepower per cubic foot.

Now, gentlemen, when that Niagara Falls power plant was installed, it was not developing from the same amount of water more than two-thirds the amount of power that it is developing now. Why? Because their turbines at that time were not of the modern type; were not of the kind that would develop the greatest amount of power from a given amount of water.

Mr. FLOOD. This bill remedies that and requires them to develop 20 horsepower per cubic foot.

Mr. SMITH of Minnesota. That is the point, and I am glad the gentleman has brought it out. You can not fix by law what is going to be the condition 10 years from now in the hydroelectric world, because no science in the world is developing so rapidly as that of the science of electricity.

Mr. FLOOD. We meet that in this bill.



Mr. SMITH of Minnesota. If within the last 10 or 15 years they have been able to develop a third more power with the same amount of water, is it not reasonable to suppose that the same progress will be made in the next 10 years?

Mr. FLOOD. The Secretary of War is authorized by this bill to require them to develop more power.

Mr. SMITH of Minnesota. That is my objection. The Secretary of War is authorized to do most everything. Why do you not say that the parties receiving this permit shall develop the greatest amount of power that is capable of being developed, and if they do not do it they will violate the provisions of the law.

Mr. FLOOD. The Secretary of War will have to determine that.

Mr. SMITH of Minnesota. He will not. The trouble with the whole bill is that it is simply turning this whole proposition over to the Secretary of War to do just as he sees fit with it, without any limitation. He is to be the court, jury, and next friend of the Hydroelectric Trust.

Mr. FLOOD. We can not allow him to issue a permit without—

Mr. PARKER of New York. The engineer of the public-service commission says that the 20 horsepower that must be developed is about all that can be developed.

Mr. SMITH of Minnesota. That is to-day, but five years from to-day or three years from to-day it may be that turbines will be invented that will produce twice the amount of power from the same amount of water that the turbine of to-day produces. My amendment requires the permittee to furnish the greatest amount of power that a given amount of water will produce; the bill leaves it to the Secretary of War to say how much power the permittee must furnish from a given amount of water. I am not surprised to find this section in this bill, as it is in line with its fundamental principles, which are: First, to authorize the Secretary to grant to the existing companies at Niagara all the rights of the public in the water power at Niagara. Second, to clothe the Secretary with such autocratic power that he can see to it that these companies are protected in their use of this water power from the demands of the public, both of which are very laudable purposes and is splendidly executed in the measure which we have before us for our consideration.

I wish to compliment the Members of the House that are supporting this bill upon their loyalty to and patriotism in the interest and welfare of the public that they are afraid to trust, but they are perfectly willing to trust a corps of engineers in the War Department, who on account of training, temperament, and lack of knowledge of general business propositions, are out of sympathy with the public.

Now, gentlemen, let me state the effect of this bill. The Secretary of War is authorized to issue permits to whomsoever he sees fit, under such conditions as he sees fit, and after he has issued those permits he is to assist the permittee in conducting his business. He is to pass upon the rate that the public-service commission of New York puts into operation. The rates have to be subject to his approval.

What is the result? Instead of government, of the water powers and public utilities of the Nation by the people's Congress you substitute government by the Secretary of War, which means his Corps of Engineers, as he has neither the time nor opportunity to exercise any supervision excepting of the most perfunctory sort.

It has been claimed for this Corps of Engineers that they are especially suited to take over the control of our water-power resources, because they are removed from local influences, but it must be remembered that they are also removed from the body of the people and surrounded by the engineers of the Hydroelectric Trust, who are naturally their associates and companions. This very environment unfits them for that broad and sympathetic public service which the control of our water powers especially demands. As proof of this statement I wish to call your attention to the attitude of these engineers whenever the public rights are in opposition to the interests of the Hydroelectric Trust. At Keokuk a dam is constructed across the Mississippi River. The engineer in charge of this dam has authorized the company to close the sluice gates during the nighttime, thus reducing the flow of the water in the river below the dam to such an extent that navigation is oftentimes entirely held up.

Again, four years ago this Congress passed a law directing the Secretary of War to make a survey of the harbor and the river at Chicago and to report to Congress whether or not there was any encroachment by private individuals on either the river or harbor. The Board of Engineers, so we are informed, treated

this direction by Congress as a joke, and the other day this Congress was compelled to pass another law, directing that this survey and report be made forthwith. In my own city the Chief of Engineers was requested to direct the boom company to remove its booms from the river, that were no longer needed, and his reply was that if the booms were removed it might endanger by the spring ice the general electric plant that was some distance down the river.

Countless instances of this kind can be cited in substantiation of what I have said in reference to the attitude of the Board of Engineers when public rights are in opposition to the interests of the Hydroelectric Trust. This attitude on the part of the Board of Engineers accounts for the anxiety of the Hydroelectric Trust to secure legislation that will turn over and place in the hands of these engineers the great water-power resources of the country. These facts are known to every Member of the House, because ample proof is furnished from day to day. All that they have to do is to examine the CONGRESSIONAL RECORD, and for their convenience I will call their attention to pages 2258, 2270, 2347, and 2348 of the RECORD of this session of the Sixty-fourth Congress. Is that Democracy?

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. SMITH].

Mr. MOORE of Pennsylvania. Mr. Chairman, I desire to oppose the amendment.

The CHAIRMAN. All debate is closed on this paragraph and amendments thereto at the close of 10 minutes. The question is on the amendment offered by the gentleman from Minnesota [Mr. SMITH].

Mr. COOPER of Wisconsin. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. SMITH].

The question was taken, and the amendment was rejected.

The Clerk read as follows:

Sec. 3. That no transfer of any permit or rights granted hereunder, except by trust deed or mortgage issued for the bona fide purpose of financing the business of such permittee, shall be made by any permittee, without the approval of the Secretary of War, and any successor or assign of the rights of any such permittee, whether by voluntary transfer, judicial sale, foreclosure sale, or otherwise, shall be subject to all the conditions of the permit under which such rights are held by such permittee, and also subject to all the provisions and conditions of this act, to the same extent as though such successor or assign were the permittee hereunder; and no works constructed, maintained, and operated under the provisions of this act, for the generation, sale, or distribution of electric current, power, and energy, shall be owned, leased, possessed, controlled, or operated in any manner so that they form part of or in any way effect any combination, trust, or monopoly, or form the subject of any contract or conspiracy to limit the output of electric current, power, and energy, or in restraint of trade.

Mr. HUDDLESTON. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Alabama offers an amendment, which the Clerk will report.

Mr. FLOOD. Mr. Chairman, I move that all debate on this section and amendments thereto be closed in five minutes, and that the gentleman from Alabama [Mr. HUDDLESTON] shall have that time.

The CHAIRMAN. The gentleman from Virginia moves that at the expiration of five minutes—

Mr. SABATH rose.

The CHAIRMAN. For what purpose does the gentleman from Illinois rise?

Mr. SABATH. To make a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. SABATH. Is it proper for the motion to be made? Under the rules is not the right given to any Member to oppose any amendment for five minutes?

The CHAIRMAN. The motion of the gentleman from Virginia is not in order at this time if anybody directs a point of order to it.

Mr. SABATH. Then, I raise the point of order.

The CHAIRMAN. The point of order is sustained. The Clerk will report the amendment offered by the gentleman from Alabama.

The Clerk read as follows:

Amendment offered by Mr. HUDDLESTON: Page 5, line 24, after the words "SEC. 3," strike out all down to the word "hereunder," in line 10, page 6, and insert in lieu thereof the following: "That without the written consent of the Secretary of War no permit granted, nor shall any approval under this act be assigned or transferred, and no grantee under this act shall create any lien upon any power project developed under an approval made under this act by mortgage or trust deed unless approved by the Secretary of War and for the bona fide purpose of financing the business of the grantee. Any successor or assign of such property or project, or of any rights accruing hereunder, whether by judicial sale, foreclosure sale, or otherwise shall be subject to all the conditions of the approval under which such rights are held, and also subject to all the provisions and conditions of this act to the same extent as though such successor or assign were the original grantee hereunder."



Mr. HUDDLESTON. Mr. Chairman, this is a very important amendment, and I hope the committee chairman [Mr. FLOOD], as well as other gentlemen who really want to see a sure-enough bill written and a bill that ought to be written, will take note of what I am saying.

The Adamson bill does not give the right to create a lien upon the plant and works except by consent of the Secretary of War. This bill does give such a right. This bill as it now is gives the right to the permittee to create a lien upon its plant without the consent of the Secretary of War.

Mr. PARKER of New York. Mr. Chairman, will the gentleman yield?

Mr. HUDDLESTON. Yes.

Mr. PARKER of New York. Does the gentleman know that if this bill passes and these companies are placed under the Public Service Commission of New York, it will be impossible for any concern to borrow a cent without the consent of the public-service commission?

Mr. HUDDLESTON. That is all I want to hear. [Laughter.] I do not yield further. I insist that we ought not to grant in this case more favorable terms to these permittees than are given under the Adamson bill. Does the Adamson bill mean anything, and should we have that clause in it? If so, let us put it in here.

Now, Mr. Chairman, this bill is giving a special favor to those concerns, allowing them to pledge their plants without anybody's consent. I hope that will be changed. I hope the chairman will insist that it be changed.

Mr. FLOOD. Where does the gentleman's amendment come in?

Mr. HUDDLESTON. If you will give me five minutes more, I will explain. I can not yield otherwise. I can not yield unless I get more time.

Now, I thank the gentleman from Tennessee [Mr. AUSTIN] for having me in mind and lecturing me. I appreciate the honor of his condescension. It shows I am rising in importance to be worthy of his attention in this fashion. [Laughter.] I feel grossly flattered. Far be it from me not to blush at the honor he confers upon me.

Mr. Chairman, I do not for a moment call in question the integrity or the ability of any gentleman from New York or any other Member on this floor. But if we are to leave the drafting of this bill to a couple of gentlemen who happen to live in the section of New York that is most vitally concerned, what are we here for? What are we debating this bill about? Just let them get off in a corner, and if they can agree—I do not believe they can—let the balance of us hand it over to them, and let them do as they please. Any such argument is absolutely absurd.

What we are here for is to legislate. I have taken an oath to do the best I can. I have given my word to do the best I can, undeterred by any kind of insinuation or intimidation or anything whatever of that kind.

The gentleman refers to hydroelectric power conditions in Alabama as being pretty bad. I do not hesitate to say that such is a fact. I wish they were better. God knows I wish they were better, and I intend at some time to make them better if I can. I told the gentleman that I do not know what rates the Alabama Power Co. charges. I do not know; nobody knows. I told the gentleman that they charge all that the traffic will bear. I tell him that now. They charge one price in one town and another price in another. So far as Birmingham is concerned, they do not deign to do their own skinning. In Birmingham they farm the privilege out to an intermediary, and the intermediary does what it likes. I am not going to defend conditions in Alabama, and because Alabama has been so woefully mistreated, because Alabama has been so unjustly oppressed, because I know what these power companies will do and the power that they have got and how many legislatures they can control and how the people are unable to cope with them, I am determined to use all the power that in me lies to rescue the people of the State of New York from any such exploitation. The gentleman can take that to his heart. [Applause.]

The CHAIRMAN. The time of the gentleman from Alabama has expired.

Mr. MOORE of Pennsylvania rose.

Mr. BURNETT. Mr. Chairman, I rise to oppose the amendment.

Mr. MOORE of Pennsylvania. Mr. Chairman, I rose to oppose the amendment.

Mr. BURNETT. I want to reply to the very unjust and unfair speech of the gentleman from Alabama [Mr. HUDDLESTON] on his State.

Mr. FLOOD. Mr. Chairman, I move that all debate on this section and amendments thereto be limited to 10 minutes, 5

minutes to go to the gentleman from Pennsylvania [Mr. MOORE] and 5 minutes to the gentleman from Alabama [Mr. BURNETT]. Mr. COOPER of Wisconsin. Mr. Chairman, I want a few minutes.

Mr. FLOOD. How much time does the gentleman want?

Mr. COOPER of Wisconsin. Five minutes.

Mr. FLOOD. Mr. Chairman, I change my motion and move that in 15 minutes the debate on this section and all amendments thereto be closed, the additional 5 minutes to go to the gentleman from Wisconsin [Mr. COOPER].

The CHAIRMAN. The gentleman from Virginia moves that in 15 minutes the debate on this section and all amendments thereto shall conclude. The question is on agreeing to that motion.

The motion was agreed to.

Mr. MOORE of Pennsylvania. Mr. Chairman, the almost single-handed fight that is being made in behalf of the State of New York by the gentleman from Alabama [Mr. HUDDLESTON] against the protest of the New York Members has attracted my attention; it has refreshed my memory to a certain extent, as I am sure it will have refreshed the memories of some of the older Members of the House, when they recall the celebrated contest on this floor over the Black Warrior River. The Black Warrior River runs through the State of Alabama. In a discussion here on August 9, 1911, there was no division of sentiment so far as the Members from Alabama were concerned with respect to a grant of power to the Birmingham Water, Light & Power Co., "hereinafter styled the company," and so called throughout the bill, which proposed to take over water power that had been created by virtue of the construction by the Government of the United States of several dams for navigation purposes on the Black Warrior River.

The Rivers and Harbors Committee had brought in the bill which proposed "to improve the navigation on the Black Warrior River in the State of Alabama," and which proposed also to grant water-power rights to the Birmingham Water, Light & Power Co. One of the most distinguished gentlemen then sitting in this House, and one of the ablest men who ever came from the State of Alabama, was the predecessor of the present gentleman from Alabama [Mr. HUDDLESTON], the former chairman of the Ways and Means Committee, Mr. UNDERWOOD. [Applause.] Mr. UNDERWOOD was very strongly in favor of this bill, which proposed to turn over to the Birmingham company the water-power privileges resulting from the generation by the Government of water power on the Black Warrior River. The gentleman from Florida [Mr. SPARKMAN], as chairman of the Rivers and Harbors Committee, called up the bill and then offered a committee amendment, a portion of which I shall read for the information of these newer Members of the House, including the gentleman from Alabama [Mr. HUDDLESTON], the successor of Mr. UNDERWOOD, who is opposing this Niagara bill. Section 4 of the committee amendment read:

SEC. 4. That the Secretary of War is authorized and empowered to enter into a contract with the Birmingham Water, Light & Power Co., a corporation organized under the laws of the State of Alabama, its successors and assigns, for the purpose of carrying out the stipulations and performances herein mentioned. It shall be provided in said contract that the company, its successors and assigns, shall have the right to construct, maintain, own, and operate, at its own cost, in connection with Dams and Locks 16 and 17, for a period of 50 years from the time fixed in this act for completion of the works herein authorized, electrical power stations and other structures for the development of water power for industrial and other purposes, and for converting to its own use, benefit, and profit the power developed with the surplus water not needed for lockage, including the right to sell, lease, or otherwise dispose of said power: *Provided*, That the company shall furnish and deliver, free of charge to the Government, at Locks 16 and 17, all power necessary for the operation of said locks and for the lighting of the Government grounds and houses situated at said locks. The said contract shall further provide for the payment by the company to the Government of an annual rental for its use of the water power developed at Dams 16 and 17.

It then goes on and fixes a period of 20 years that this company may operate, paying the Government \$1 per horsepower, and then new conditions are to be made, and so forth.

The question immediately rose on the floor when Mr. UNDERWOOD was supporting this bill as to the right of Congress to turn over to a power company in the State of Alabama this water power created as stated at the cost of the Government of the United States. There was considerable debate upon the question, and a great difference of opinion, when the gentleman from Alabama [Mr. TAYLOR], who was very earnestly in support of the measure, made this statement:

One more suggestion: The State of Alabama has given the water-power rights to this water company at the head of this stream. The State of Alabama in her policy has already disposed of her rights. The policy of the State of Alabama and of her legislature and the construction of the law by her judges is that the General Government has no power over the water power of a State, and she has already given to this particular company the right to create a water power upon this stream above navigation.



So the question presented to the House by the gentlemen from Alabama was that, although the Federal Government had spent its money building locks and dams to improve navigation in the State of Alabama, and the State of Alabama through its legislature had decided that it wanted to control whatever profits arose from the power generated by these Government dams, therefore the Federal Government had no right to interfere with the State of Alabama, but must keep hands off so far as the regulation of the electrical power business within State limits was concerned.

I have not the time to go on further with this discussion now, except to say that one of the most vigorous supporters of this measure at that time was the forceful and popular predecessor of my friend the gentleman from Alabama [Mr. HUDDLESTON], the then distinguished leader of the House and now the Senator from the State of Alabama [Mr. UNDERWOOD]. [Applause.] If it is wrong to grant any privileges to the State of New York in this Niagara matter it certainly was wrong in 1911 to propose it for the State of Alabama in the matter of the Black Warrior.

The CHAIRMAN. The time of the gentleman has expired.

The gentleman from Wisconsin [Mr. COOPER] is recognized for five minutes.

Mr. COOPER of Wisconsin. I want to ask the gentleman from Virginia [Mr. Flood] if there is anything in the bill which would prohibit having a generating company and a transmitting company and a distributing company, all making profits between the water and the ultimate consumer?

Mr. FLOOD. I think so.

Mr. COOPER of Wisconsin. In that connection, before the gentleman answers the question, I call his attention to the language to which I directed attention a little while ago, on page 4, beginning at line 15—

And the permittee, after the completion of the works, shall operate the same continuously for the development and transmission of electric current, power, and energy for sale or for other commercial purposes.

In other words, they may generate it for sale or not, in their discretion. A literal interpretation of that would be that they could use it exclusively for their own private manufacturing purposes. If the one company were large enough, it could use all the water, generate the power, and sell it or not sell it. That language means, for example, that one company there, the Schoellkopf Co., could, at Niagara Falls, generate its own electric power and keep it exclusively for its own use.

Mr. LA FOLLETTE. Will the gentleman yield?

Mr. COOPER of Wisconsin. Yes.

Mr. LA FOLLETTE. Has the gentleman overlooked the language on page 3, beginning in line 12?—

Every permit shall require the permittee, at all times during its operation under such permit, actually to engage in the business of furnishing light, heat, power, and electric current.

Mr. COOPER of Wisconsin. But it might furnish it to itself. Under this act it can generate it "for sale or other commercial purposes." It could generate the power and then itself use it all. Is not that a fair interpretation of that language?

Mr. LA FOLLETTE. If the company should use the power itself, do you think that would be actually engaging in the business of furnishing light, heat, power, and electric current?

Mr. COOPER of Wisconsin. In construing a statute all of its provisions should be considered together. This language is—shall operate the same continuously for the development and transmission of electric current, power, and energy for sale or for other commercial purposes.

What does that word "or" mean? The clause cited by the gentleman does not qualify, amend, or repeal or in any way change that. The language I have quoted is an express authority to generate and distribute electric current for sale or not for sale, in the discretion of the permittee. They can take it all for their own private use. Are we to turn Niagara Falls over to corporations to use for their own exclusive private commercial purposes? What does the language "for sale or other commercial purposes" mean? Clearly its only meaning is that the electricity is to be for sale or not for sale, in the discretion of the generating company. If that is not its meaning, let any person put any other rational interpretation upon it.

This is in many respects a well-drawn bill; but it does not require many defects of a vital character to make an otherwise good bill a fatally bad one.

Now, Mr. Chairman, I have here some of the testimony taken before our committee. State Senator Thompson, a member of the New York Legislature, said:

In New York State in the city of Niagara Falls and in Buffalo and in towns about the vicinity of Niagara Falls power is being sold so that when it is finally distributed to consumers they pay from 7 to 10 cents per kilowatt hour for current in a house.

From what I can see and learn people over there (Canada) in the various municipalities get their power for approximately 3 cents where the people on the United States side have to pay from 7 to 10

cents. That has been going on there for four or five years, and we can hardly ignore that condition any longer, and we ought to proceed on the idea of seeing what we can do for the ultimate consumer in this matter.

Again he testified:

The trouble is not with the generating company at all. They sell the power for \$15 a horsepower. . . . The difficulty is with the final distributing company and the intermediate distributing company.

There is a big difference between the price generating companies get and which the distributing companies get.

In other words, there is a big difference between what the generating company sells it for and what the ultimate consumer pays. The bill as drawn leaves it within the discretion of permittees to sell, transmit, and distribute the power, or in their discretion not to sell it, but to use it for commercial purposes, or, in other words, for their own exclusively private use.

Mr. BURNETT. Mr. Chairman, I would not live in a State where the legislature could be corrupted, as the gentleman from Alabama [Mr. HUDDLESTON] insinuated could be done in the State where he lives. I have spoken about corrupting legislatures, and I want gentlemen here to remember what the gentleman from Alabama said, and I want it to stay in the Record just as the gentleman said it.

Mr. Chairman, I had something to do with passing the first bill from which originated the Alabama Power Co., giving a private individual, Mr. Lay, of Gadsden, the right to build a dam across the Coosa River. My main purpose was to try to improve the navigation of that stream; and later on we passed through this House—and the distinguished ex-Speaker of the House [Mr. CANNON] made one of his splendid speeches in defense of it—a bill allowing the Alabama Power Co. the right to construct Dam No. 18, which would have opened up 30 more miles of the Coosa River to navigation if it had become a law.

President Taft vetoed the bill. A company that intended to develop the power there had even then contracted for the location of a nitrate plant in the city of Montgomery by which they could have extracted from the air 30,000 tons of nitrogen a year for sale to the farmers. As a result of that veto of Mr. Taft the company went into Canada and are now manufacturing thousands of tons of air nitrogen that the farmers of Alabama would have had the benefit of if our bill had passed.

The gentleman from Pennsylvania [Mr. MOORE] read from the remarks of Mr. UNDERWOOD, the distinguished gentleman from the district now represented by the gentleman [Mr. HUDDLESTON]. Mr. UNDERWOOD spoke for a similar proposition and took the same position in regard to State control that every Member of the Alabama delegation now takes except the gentleman from Alabama who sets himself up as the censor and the criterion by which all others should go. [Applause.]

We believe that the State of Alabama has the right to regulate the powers and their sale to the people. We have a public-utility commission elected by our people, and certainly we believe that they are competent to regulate these rates. We believe that the riparian owner has some rights in the stream also. Mr. Chairman, as a result of our law the Alabama Power Co. has established a station in my home town where, by their electric system, the price of power and lights was reduced 25 per cent. [Applause.]

All along the Coosa River there are a number of little towns that use it. One town, the town of Leeds, in the district of the gentleman from Alabama [Mr. HUDDLESTON], has an electric lighting system from this company that they would not be able to finance by themselves. I know that it is said that the coal interests, especially the interests around the gentleman from Birmingham, are opposed to it. I am not charging that the gentleman is influenced by that fact, but we know that the power company has never had a friend among the coal barons, because it comes in direct competition with them.

Mr. Chairman, only a few weeks ago one of the largest coal-mine owners in Alabama wanted to buy current from this electric power company to run his own coal mines because, he said, he could do it more cheaply than he could by using his own coal. Yet on account of the fact that we did not get the other bill through, this company with its limited power could not supply the current to these coal mines. Only a short time ago one of the railroad companies in Alabama notified one of the coal-mine owners that they were going to requisition the cars of coal of the coal companies that were loaded for the purpose of supplying consumers, but because the railroads were public-utility corporations they had that right and did take the cars of coal from the mining company.

Mr. Chairman, no railroad can stop the transmission of the current which this company is sending out to give light and heat and life to the poor people of that country. The gentleman from Alabama talked the other day about the horny-handed sons of



toil, and that they did not want this bill. Mr. Chairman, I have had three fights since I secured the passage of that dam bill, and that very charge was made against me every time, and every time my people, the people in the country, not in any city or in the environs of Birmingham, but people in the rural districts, have rallied to my support and defeated those who would cast an aspersion upon me. The gentleman does not represent Alabama, and does not represent its splendid people when he talks about controlling legislatures in the State that gave me birth. [Applause.]

Taking advantage of my leave to print, I desire to say something about the history of dam legislation on the Coosa River. This river flows through three counties in the district which I have the honor to represent. It is formed by the junction of the Etowah and Oostanaula Rivers at Rome, Ga. The Oostanaula is navigable at some seasons of the year for more than 100 miles above Rome. The Coosa is now navigable at all periods of the year for a distance of about 200 miles. But for about 100 miles of obstructions it would be navigable all the year to Montgomery, Ala., a distance from Rome of nearly 500 miles. Just above Montgomery it makes a junction with the Tallapoosa River, forming the Alabama River. From there to Mobile Bay is about 250 miles. On account of sand bars the river from Montgomery to Mobile has only a 4-foot navigation.

When I first came to Congress I set about to try to secure navigation from Rome to Mobile Bay. With this accomplished, we will have the longest navigable river in the South that flows into the sea except the Mississippi. The original project contemplated 4-foot locks and dams, and required 32 such locks and dams to overcome the obstructions in the river. I had Chairman Burton and several other members of the House Rivers and Harbors Committee to visit the river, and they were astonished at its magnitude and at the splendid country through which it flowed. However, the large estimated cost of constructing and maintaining so many locks and dams was a serious obstacle in the way of the Government undertaking the completion of the project, and the members of the committee were unanimous in the opinion that the cost should be partly borne by private enterprises constructing large dams for developing hydroelectric power.

Besides, the committee thought that 4-foot locks and dams would be totally inadequate. So the friends of the river in Congress secured a resurvey by the Government to ascertain whether the number of locks and dams could be reduced, and at the same time a deeper navigation be secured. This survey was made by Capt. Ferguson, one of the ablest Army engineers in the whole corps. After months of careful work he reported that by building 6-foot locks and dams we could secure deeper navigation and at the same time reduce the number of locks and dams to 20 instead of 32.

To overcome the obstructions of the shifting sand bars in the Alabama River he at the same time made a survey of the Etowah River above Rome and reported that by constructing two large dams on that river water could be impounded in the Etowah during the rainy season of the year and released during the dry season, and thus secure a 7-foot navigation on both the Coosa and the Alabama Rivers during the entire year. This report was laid before the Board of Army Engineers at Washington and was regarded as feasible, but the estimated cost of constructing the reservoirs and the locks and dams was to be so great that the board disapproved the new project. In the meantime Members of Congress from Georgia and Alabama secured the passage of a bill to allow W. P. Lay or his assigns to construct a dam at Lock 12, on the Coosa River, for developing water power.

The main purpose that those of us who urged the passage of this bill had was to aid in promoting navigation. The Government was doing almost nothing to make this great river navigable.

Capt. Lay, being unable to spend the large amount of money necessary to build the dam, sold to capitalists who constructed Dam 12 for the development of hydroelectric power.

By the construction of this dam several obstructions were submerged and more than 25 miles of the river was made navigable.

Later on the Bankhead-Hefflin bill was passed through Congress permitting the Alabama Power Co. to construct another large dam at Lock 19 for the purpose of developing the same kind of power. This bill was vetoed by President Taft. If it had become a law, 30 miles more of obstructions would have been overcome without a cent of expense to the Government.

Thus the obstructions in more than one-half the river would have been overcome, and, as was intimated by some members of the Board of Engineers, the Federal Government might well have afforded to construct the reservoirs and the remaining

locks and dams, and the long river would have had perennial navigation. The power company in anticipation of the passage of the bill had already secured a site at Montgomery on which to construct a large plant to extract nitrogen from the air and convert it into fertilizer for the farmers. It would have manufactured more than 30,000 tons of air nitrogen annually right at the doors of the farmers of the South.

When the bill was vetoed the company went to Canada and erected the very cyanamid manufactory that they intended to build in Alabama. Almost our entire supply of nitrogen comes from Chile, and that Government charges a large export tax on it, and our farmers in the South have that tax to pay, in addition to high rates for transportation. Thus we see this instance of what Pinchotism has done for the South and for the defeat of navigation on one of the greatest rivers in the land.

The Alabama Power Co. is right now asking the State public utilities commission to permit it to reduce its rates on electric-lighting current from 12 cents per kilowatt hour to 10 cents, a reduction of nearly 20 per cent, in all the towns it serves. I hold no brief for this company, do not own a dollar of stock in it, and have no interest in it except as it may help to develop the navigation of the Coosa-Alabama River and otherwise benefit the people of my State. Yet I feel it ought to be set before this body fairly and justly. The legislature of our State thought it enough of a benefactor to exempt it from taxation for five years.

The great steel plant at Gadsden is using much of its power to drive its immense machinery; a large cement plant at Ragland is also using it. Lincoln and 23 other towns and cities in Alabama are being served with hydroelectric power from Lock 12 at reduced rates, while Jasper, Wetumpka, and other towns are paying all the way from 12 to 20 cents per kilowatt hour for power and lights generated by coal. Many small towns that are using this power could never have been able to finance plants of their own.

If President Taft had not vetoed the proposition for the dam at Lock 18 many gins, mills, and other small industries would now be using power from that plant.

The development of hydroelectric power at Lock 12 on the Coosa River has established the operation of the electric steel industry in the State of Alabama at Anniston. With hydroelectric power, and only because of hydroelectric power available from the Lock 12 development on the Coosa River, could the electric furnace industry ever have been established in Alabama as it has been established. The Anniston Ordnance & Steel Co. secured an English order for shell steel, and the order has been partly filled and is still being filled, and the operations have proved a success, and so important, indeed, have the results been that from an unimportant beginning three electric steel furnaces are in operation and two additional and very efficiently constructed ones are being added and will be in operation within a very short time.

In the last two weeks this Anniston electric steel business has been refinanced and additionally financed to the extent of \$3,000,000, and the electric steel business in Anniston is to be placed upon a permanent basis and to form one of the most important steel industries in Alabama or in the whole South and is the only electric steel operation in all the Southern States. In fact, there is not in Alabama to-day any hydroelectric power of any reliable kind, either as to volume or price, that will serve in a large way the electric furnace industry in any of its lines of useful and highly important productions. Two years ago a Canadian engineer representing New England capital desired 5,000 horsepower, later to be increased to 10,000 horsepower, for the manufacture of abrasives through the electric furnace, using bauxite from Alabama, but they could name no rate that would compare with the rate at Niagara Falls, and the Alabama Power Co. could not furnish 5,000 horsepower for this purpose, let alone 10,000 horsepower. The result was that this abrasive industry, manufacturing material somewhat like emery wheels, was established in Canada, and to-day the bauxite is going from Georgia to Canada at a freight rate of more than \$5 per ton.

When the so-called conservationists are willing to forego their unconstitutional views with reference to taxing the people of the States for the use of the water in the States, then and not till then will the water powers daily wasting in our rivers make wonderful contributions to the reduction of the high cost of living through the operations of electric furnaces in producing cheaper fertilizers that will result in cheaper food crops and cheaper steels made out of low-grade ores and scrap iron.

Such developments as those mentioned would have been almost impossible but for the use of the hydroelectric power from this plant.



May I bring to your attention a very concrete example of how it is that the Alabama Power Co., with its great central stations, hydroelectric at Lock 12, and steam station at Gadsden on the Coosa, and its new steam station now completing on the Warrior River, can furnish and is furnishing electric lighting current to the people of Alabama towns at rates that positively can not be afforded by those lighting companies or those municipalities operating their own electric lighting stations with steam coal. At Sheffield the Sheffield Co. has a steam electric station conceded by engineers everywhere who know of the fitness and efficiency of this station to be second to none perhaps in the South. The electric lighting rate now charged by the Sheffield Co. to the towns of Tusculumbia, Sheffield, and Florence is 12 cents per kilowatt hour, and even with this efficient station it is impossible to reduce the lighting rates in these three towns to 10 cents, as the Alabama Power Co. is doing. And, by way of comparison, the Alabama Power Co. has reduced its rates in Decatur and in Huntsville to 10 cents. Its large operations enable that company to absorb the less profitable and, in fact, losing operations at Huntsville and Decatur, but the Sheffield Co. has no way to absorb anything, that company being too small.

Should the rates of this company ever become excessive, how much easier it will be for small towns and small industries to get relief by going before our State utilities commission at Montgomery than to have to come to officials of the War Department at Washington.

But, gentlemen, a more important question than any of these is the fact that these so-called conservationists, who are really obstructionists, are abandoning some of the fundamental principles of State rights and local self-government.

It has been the law from time immemorial that riparian owners of the banks along navigable streams have the absolute right to the use of the water of the stream, subject to the rights of the Government for navigation purposes.

As an example as to how the Supreme Court of the United States and the State supreme courts have held on this subject from the foundation of the Government up to the present time, we quote:

WATER COMPANY V. WATER BOARD.

(168 U. S., p. 366.)

The high court says: "The jurisdiction of the State over this question of riparian ownership has been always, and from the foundation of the Government, recognized and admitted by this court."

KANSAS V. COLORADO.

(206 U. S., p. 46.)

In this case it was held, in substance, that where the Federal Government is not interested as the owner of riparian lands the only interest it has in the water of a stream is as to its use for purposes of navigation, and it can lay no claim to the use of the water for any other purpose, not even for irrigation.

UNION DEPOT CO. V. BRUNSWICK.

(31 Minn., p. 297.)

Whether the fee to the bed or only an easement therein are in the riparian owner may be a question of speculative interest, but it is not one of any particular importance. If the fee be in the riparian owner, yet, of course, it must be a qualified fee; that is, subject to the paramount right of navigation. But if it be in the State the riparian owner still has, subject to the same public right, the exclusive right of possession and the entire beneficial interest.

UNITED STATES V. CHANDLER-DUNBAR WATER POWER CO.

(229 U. S., p. 51.)

This is the latest decision of the Supreme Court of the United States on this subject. It was rendered May 26, 1913, and among other things that court said:

"That riparian owners upon public navigable rivers have, in addition to the rights common to the public, certain rights to the use and enjoyment of the stream which are incident to such ownership of the bank must be conceded. These additional rights are not dependent upon title to the soil over which the river flows, but are incident to the ownership of the bank."

Ye old-time Democrats, what has become of your old-time democracy?

Ye advocates of State rights, are you going to abandon it to a lot of bureaucrats in Washington?

The Federal power has already trenched too far upon the reserved rights of the States, and Democrats in Congress are to a great extent responsible for these new departures.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alabama.

The question was taken, and the amendment was rejected.

Mr. CLINE. Mr. Chairman, at this point, as was indicated two weeks ago, and was stated this morning, I now offer the recapture clause in the Adamson bill, which has passed this House three times.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Indiana.

The Clerk read as follows:

On page 6, after line 17, amend by inserting the following:

"That the rights granted herein shall continue for a period of 50 years from and after the completion of the diversion structures and

works in accordance with the plans and specifications approved therefor under section 2 of this act: *Provided*, That any such may be declared null and void upon breach of any of the terms or conditions of approval as provided herein: *And provided further*, That whenever the Secretary of War shall determine that the diversion of water herein authorized in connection with the amount of water diverted on the Canadian side of the river interferes with the navigable capacity of said river, or its proper volume as a boundary stream, or its efficiency as a means of national defense, he may revoke any permit: *And provided further*, That whenever the Secretary of War shall determine that the diversion of water herein authorized in connection with the amount of water diverted on the Canadian side of the river affects the scenic grandeur of the Falls of Niagara, he may revoke any permit after reasonable notice to the permittee of his intentions to make such revocation.

"That at any time after the expiration of any permit made hereunder, upon six months' notice of intention to do so, given either before or after the expiration of the permit, the United States, or any person authorized by Congress, may take over such works used by the permittee for the generation and transmission of electrical energy which are dependent for their usefulness on the continuance of such grant: *Provided*, That by 'transmission' there shall be understood the wires, conduits, poles, or other devices used to convey electrical energy to the point of its application; but that nothing herein contained shall obligate the United States to purchase any property beyond such generating plant and transmission lines: *Provided further*, That the United States may also purchase, at its discretion, such lands and other property of any grantee acting under the terms of this act as in the judgment of Congress may be deemed advisable upon condition that it shall pay before taking possession, first, the reasonable value, not exceeding the actual costs of the works constructed under the approval of plans and specifications, rights of way, lands, and interests therein purchased or taken over by it; and, second, the reasonable value of all other property taken over, including structures and fixtures acquired, erected, or placed upon the lands and included in the generation or transmission plant and which are dependent as herein above set forth, such reasonable value to be determined by mutual agreement between the Secretary of War and the permittee or owners of such property, and in case they can not agree, by proceedings instituted for that purpose in the United States district court for the district in which said property or some part thereof is situated, but in no case shall the amount exceed the actual cost: *Provided*, That such reasonable value shall not include or be affected by the value of the franchise or good will or profits to be earned on pending contracts or any other intangible elements.

"That in the event the United States does not exercise its right to take over, maintain, and operate the properties as provided in section 5 hereof, the Secretary of War may renew the approval of plans and specifications, either original or modified, upon such terms and conditions and for such periods as may be authorized under the applicable laws that may be in force at that time, or the Secretary of War is authorized, upon the expiration of any grant under this act, to approve terms and conditions under which a new permittee may operate such properties for such periods as applicable laws may then authorize upon the further conditions that the new permittee shall pay the original permittee for the properties as provided in section 5 of this act.

"That where, in the judgment of the Secretary of War, the public interest requires or justifies the execution by any permittee of contracts for the sale and delivery of water power or electrical energy for periods extending beyond the life of the permit, but for not more than 20 years thereafter, such contracts may be entered into upon the approval of the said Secretary, and thereafter, in the event of the exercise by the United States of the option to take over the plant in the manner provided in either section 5 or 6 hereof, the United States or its new grantee shall assume and fulfill all such contracts.

"That if any permittee fails or refuses to comply with any conditions contained in any permit issued hereunder or with any of the provisions of this act or any regulation or lawful order of the Secretary of War made in pursuance hereof, it shall constitute a misdemeanor and be punished by a fine not exceeding \$2,000 nor less than \$500, or by imprisonment not exceeding 1 year nor less than 30 days, or both, in the discretion of the court; and each and every day on which such violation occurs or is committed shall be deemed a separate offense: *Provided*, That where such violation is charged against the company or corporate body, the offense shall be taken and deemed to be that of any director, officer, agent, or employee of such company or corporate body ordering, directing, or permitting the same, and in addition to said penalties the Attorney General may, on request of the Secretary of War, institute proceedings in equity in the district court of the United States where the works are located to compel the grantee to comply with the terms of this act and of the permit by injunction, mandamus, or otherwise, and such court shall have full jurisdiction over the proceedings, with power to make and enforce all decrees necessary to compel the permittee to comply with the terms and conditions of this act and of the permit and orders and regulations of the Secretary of War, and if the permittee continues after final judgment in either civil or criminal proceedings the violations complained of the court may, if it deems necessary in the public interest, decree the revocation of all rights and privileges held hereunder. In case of such a decree the court may wind up the business of such grantee conducted under the rights in question, and may declare such diversion structures and accessory works to be an unreasonable obstruction and cause their removal at the expense of the grantee owning or controlling the same, or may provide for the sale of such diversion structures and all accessory and appurtenant works constructed under authority of this act for the further development of water power, and may make and enforce such other and further order and decrees as equity demands; and in case of such a sale for the further development of water power the vendee shall take the rights and privileges and shall perform the duties which belonged to the previous permittee, and shall assume such outstanding obligations and liabilities arising out of the maintenance and operation of such diversion structures and accessory works for power purposes as the court may deem equitable in the premises."

Mr. SMITH of Minnesota. Mr. Chairman, is this in the same language as the Adamson bill, so far as the recapture clause is concerned?

Mr. CLINE. The recapture clause was taken word for word from the Adamson bill.

Mr. SMITH of Minnesota. But there is a great deal more than that clause in that amendment.

Mr. CLINE. The other provision in connection with that has been included so that the Government has the option of



winding up the business of the concern or taking it over, as the Adamson bill provides.

Mr. SMITH of Minnesota. Is it the intention of the committee to ask a vote upon this bill to-night?

Mr. CLINE. We expect to. If we ever have a vote upon it, we will have to have it to-night.

Mr. HUDDLESTON. Mr. Chairman, will the gentleman yield?

Mr. CLINE. Yes.

Mr. HUDDLESTON. Some one has just handed me a copy of a bill marked "Confidential committee print." Is that the bill from which the Clerk read this clause?

Mr. CLINE. That is the bill, but it is not the entire bill that is offered.

Mr. HUDDLESTON. What part is it that is offered as an amendment?

Mr. CLINE. It is all in italics, beginning on page 6, at section 4.

Mr. HUDDLESTON. Then the gentleman's amendment consists of sections 4, 5, 6, 7, and 8 of this confidential print?

Mr. CLINE. It comprises the recapture clause.

Mr. HUDDLESTON. Is that the gentleman's amendment?

Mr. CLINE. Yes; I asked to have those all read, because they have been passed upon so many times by the House. I thought there would be no objection to them. The gentleman will remember that the gentleman from Kentucky [Mr. SHERLEY] and several others two weeks ago made some objections to the bill because it did not have a recapture clause.

Mr. SABATH. Is this an amendment offered in lieu of section 4 of the bill under consideration?

Mr. CLINE. It is not in lieu of anything.

Mr. HUDDLESTON. Mr. Chairman, I reserve the point of order upon the amendment.

The CHAIRMAN. The gentleman from Alabama reserves the point of order.

Mr. HUDDLESTON. I am anxious to understand it.

Mr. CLINE. This is not offered in lieu of anything, but it is offered as an amendment to the bill.

Mr. HUDDLESTON. Is it added to some section?

Mr. CLINE. Added to section 4.

Mr. HUDDLESTON. It is added to section 4?

Mr. CLINE. Yes.

Mr. HUDDLESTON. At the end of section 4; is that where it comes in?

Mr. CLINE. It comes in immediately after section 4. It begins on page 6 at the end of line 17.

Mr. HUDDLESTON. May I ask the gentleman what is the necessity of completely changing section 5?

Mr. CLINE. No; it does not completely change section 5.

Mr. HUDDLESTON. May not I ask the gentleman if it would not be better to offer it to one section at a time? It is so long many of us, I among others, perhaps do not comprehend it fully.

Mr. CLINE. It is offered as an amendment in conjunction with the provisions set out in sections 4 and 5 for the purpose of giving the Government the option of either closing up the business or of taking the business over and reissuing permits to another if it does not desire to do the business itself. I say the recapture clause was offered in connection with sections 4 and 5 providing that the Government should have the option of either taking over the property or leasing it or issuing a permit to another permittee and providing also a means under which it might be transferred from the original permittee to an assignee. It is the same as provided in the Adamson recapture clause. And I will say to the gentleman if the time should ever come that we can get a vote upon the bill it will go to conference, and if there is any difficulty about it in this particular it will be taken care of. It was not the purpose to cover up anything, but was offered in connection with the provisions of the bill following sections 4 and 5.

Mr. STAFFORD. Mr. Chairman, does not the gentleman realize it is very difficult for us to pass judgment upon this recapture clause, because it has never heretofore been submitted to the House? The gentleman offers for consideration a very important proposition, an amendment that is merely a committee amendment to a bill that is pending in another committee, namely, the Committee on Interstate and Foreign Commerce. To show the difficulty that confronts the committee, I want to point out one defect that is obvious to gentlemen of the committee upon the mere presentation of it. At the beginning of this session to-day the inquiry was made whether the chairman of the committee or some one could not acquaint the committee with this recapture clause. Here at half past 4 o'clock in the afternoon we are advised of what the recapture clause is.

Mr. CLINE. I will say to the gentleman from Wisconsin, and to every other member of the committee, that the recapture clause in the Adamson bill has been adopted three times in this House, and it is now in conference between the House and Senate.

Mr. STAFFORD. I wish to say to the gentleman I have studied the recapture clause as carried in the Ferris bill, and I was under the impression that that recapture clause would be offered as an amendment rather than the recapture clause embodied in this bill. Further, I wish to direct the attention of the gentleman to the fact that there are some corrections which must be made if it is going to be applicable at all. I have just glanced over the first paragraph of the proposed amendment, and I see there are some changes which must be made in order to identify it properly with the bill under consideration. For instance, in line 21, page 6, the committee proposes an amendment which says, "In accordance with the plans and specifications approved therefor under section 2 of this act." The plans and specifications were included in section 2 of the act under consideration, but that has been changed to section 3 by an amendment which was adopted here to-day.

Mr. CLINE. That is a mere typographical error.

Mr. STAFFORD. I know; but it is an error nevertheless and just shows that care should be exercised in offering these amendments.

Mr. CLINE. I will say that care was exercised, and in section 2 as provided there are four separate propositions, and they have been numbered as sections 3 and 4 since we have discussed this bill.

Mr. STAFFORD. I understand how that happened, but still, nevertheless, you will find that we have got to go over it very carefully.

Mr. FLOOD. The statement I want to make is this: There are three of these bills which contain the recapture clause, and if this one passes and goes to the Senate there will be three in conference between the House and Senate. My idea is to use the recapture clause in the Adamson bill bodily for this bill, and when the three bills are in conference in the Senate the conferees on the different bills will get together and agree to the same recapture provision for all three bills.

Mr. ROGERS. Will the gentleman yield?

Mr. FLOOD. Yes.

Mr. ROGERS. Do I understand the proposed amendment is a substitute for sections 4 and 5?

Mr. FLOOD. Yes.

Mr. ROGERS. Then it is not a substitute for section 5 as far as the text goes?

Mr. FLOOD. No.

Mr. ROGERS. Section 5 as it now stands will remain in the bill, but with a different section number?

Mr. SABATH. I do not so understand.

Mr. FLOOD. This is a substitute for sections 4 and 5.

Mr. ROGERS. Will the gentleman yield?

Mr. STAFFORD. I yield for a question and answer.

Mr. ROGERS. So section 5 become unnecessary?

Mr. FLOOD. Yes.

Mr. STAFFORD. The gentleman is rather sanguine of this recapture clause getting into conference. If my recollection serves me right, the Ferris bill is not in conference and it is not expected it ever will be. The Adamson bill has been in conference for five months, and it is strangled there, and so I do not know whether this bill will get as far as the Adamson-Shields water-power bill.

Mr. FLOOD. If it does not get into conference, it will not become a law.

Mr. STAFFORD. There are only three weeks remaining, and there is not much prospect.

Mr. HUDDLESTON. Will the gentleman yield?

Mr. STAFFORD. I yield.

Mr. HUDDLESTON. This proposed amendment fixes the terminate period for 50 years flat, whereas the bill we have been considering provides the permit shall not last longer than 50 years; shall not have a longer life than 50 years.

Mr. STAFFORD. The gentleman is correct. I think this amendment should be withdrawn from further consideration by the committee.

Mr. HUDDLESTON. I would like to ask the committee chairman if he will yield. I make the point of order, Mr. Chairman, that it is not germane, and that it embraces two sections and is not germane to the section. It seems to me there are a number of sections that are here offered as an amendment to a single section which are not germane to the bill. I do not think any of them are germane. It certainly contains many provisions which are entirely new, and although there may be pro-



visions in the amendment which are germane there is so much that is not germane carried in the amendment it seems to me the whole amendment should fail. Section 4 of the bill, to which I understand this amendment is offered, says: "Any violation of the provision of this act or any regulation or order of the Secretary of War," and so forth. That is the amendment that was offered. It is totally different from the bill that we have. The bill under consideration prescribes certain conditions in all of which the permit will be revoked, and that is all it relates to. It relates merely to the ground on which the Secretary will revoke the permit. Now, the bill we have here does not confine itself to that subject by any means—I mean the amendment. It does not confine itself to that subject at all. It proceeds to deal with a number of other points. It changes the period of the permit, in the first place; it changes from a permit for not exceeding 50 years to a permit for 50 years.

Mr. FLOOD. May I interrupt the gentleman?

Mr. HUDDLESTON. Certainly.

Mr. FLOOD. You have a copy, or a confidential print, that somebody has gotten?

Mr. HUDDLESTON. Yes.

Mr. FLOOD. How would it meet your views to offer as the recapture clause of this bill sections 5, 6, and 7, as you see them in the confidential print?

Mr. HUDDLESTON. I have not read it, and it is practically impossible that we should gather the purport of it by having it read over to us, with no chance to study or compare it.

Mr. FLOOD. You have studied the recapture rules of the Adamson bill and you have offered a recapture clause from the Adamson bill; sections 5, 6, and 7 are taken bodily from the Adamson bill.

Mr. HUDDLESTON. I do not recognize it, I will say to the gentleman. It seems to have in it a good deal the Adamson bill has not got. The recapture clause of the Adamson bill is not in here in this form, so far as I can grasp this. I think for the reason I have stated, Mr. Chairman, the amendment is not germane.

The CHAIRMAN. The Chair will hear the gentleman from Indiana or the gentleman from Virginia. The Chair will say that this, of course, is a very complicated amendment, and the rule as to germaneness is sometimes a very difficult one of application. Therefore, the Chair is not prepared to rule on an amendment like this without being advised of the amendment and its application to the pending bill.

Mr. FLOOD. I did not catch the statement of the Chair.

The CHAIRMAN. Of course, when the Chair comes to a ruling on the question of germaneness it will be difficult for the Chair to make an intelligent ruling on as extensive amendment as this is without being apprised of the nature and relevancy of it to what is contained in the bill itself.

Mr. FLOOD. The amendment offered by the gentleman from Indiana [Mr. CLINE] is the recapture clause, in three sections or more, taken from the Adamson bill, that passed the House. This is a bill to grant the right to use water for power purposes at Niagara Falls, and providing that the charges for the use of this water should be regulated by the Public Service Commission of the State of New York, and providing further that under certain conditions there shall be a forfeiture of all rights under this act, a charge for the use of water and for other purposes relating to the use of water for power purposes.

The amendment makes it clearer how the Government can take possession of the property than any other provision in the bill. It is a proper part of the bill and therefore it is germane, although there are some portions of it that I did not understand would be offered as a part of this amendment.

My suggestion to the gentleman from Indiana [Mr. CLINE] is that he take sections 5, 6, and 7 of the Adamson bill and offer them as the recapture clause of this bill, and leave sections 4 and 5 of the present bill as they stand.

The CHAIRMAN. The Chair will state that this amendment has been really offered prematurely, because section 4 has not yet been read. Of course no point of order having been made as to that and the discussion proceeding informally, the Chair has not notice of that.

Mr. FLOOD. Then I ask, Mr. Chairman, that the Clerk read to that point.

The CHAIRMAN. The Clerk will read.

Mr. HUDDLESTON. Do I understand the Chairman to rule on the matter?

The CHAIRMAN. Not at this time. The Chair directs the formal reading of the bill to that point at which the amendment can properly be added.

Mr. HUDDLESTON. My reservation of the point of order holds?

The CHAIRMAN. Yes.

Mr. STAFFORD. I understand the Chair says the amendment as to the recapture clause is not now before the House for consideration?

The CHAIRMAN. It is not now really in the possession of the House, although it was inadvertently offered. The Clerk will read.

The Clerk read as follows:

Sec. 4. That any violation of the provisions of this act, or of any regulation or order of the Secretary of War or the Chief of Engineers, made pursuant hereto, or of the requirements of any permit issued under this act, shall constitute a misdemeanor and be punished by a fine not exceeding \$2,000 nor less than \$500, or by imprisonment not exceeding one year nor less than 30 days, or both, in the discretion of the court; and each and every day on which such violation occurs or is committed shall be deemed a separate offense: *Provided*, That where such violation is charged against the company or corporate body, the offense shall be taken and deemed to be that of any director, officer, agent, or employee of such company or corporate body ordering, directing, or permitting the same: *Provided further*, That if any permittee shall at any time fail or refuse, after receiving reasonable notice thereof, to comply with any of the provisions of this act or with any of the conditions of the permit, or any lawful order or regulation made by the Secretary of War and Chief of Engineers in accordance with the provisions of this act, the Secretary of War may, in addition to said penalties, revoke said permit, and thereupon all rights under said permit shall cease and determine: *Provided further*, That the Secretary of War may, in lieu of revoking the permits as provided in the preceding proviso, in a case where the public interest would, in his judgment, be better protected by such judicial procedure, give information of such violation to the Attorney General, who shall institute proper proceedings in the district court of the United States in the district in which any structures or any appurtenant or accessory works constructed or acquired under the authority of this act may in whole or in part exist, for the purpose of having such violation stopped by injunction, mandamus, or other process; and any such district court shall have the power to make and enforce all writs, orders, and decrees necessary to compel the compliance with the requirements of this act and the lawful regulations and orders of the Secretary of War and the Chief of Engineers and the performance of any condition or stipulation imposed under the provisions of this act; and if the unlawful maintenance and operation be deemed by the court to be such as shall require in the public interest a decree revoking all rights and privileges held under authority of this act, the court may, upon prayer of the Attorney General and the finding of the court to that effect, decree such revocation, and in case of such a decree the court may wind up the business of such permittee conducted under the rights in question, and may decree the sale or removal of such structures and appurtenant property constructed or acquired under authority of this act, and may make and enforce such other and further orders and decrees as equity demands; and in case of such sale, the vendee shall take the rights and privileges, and shall perform the duties which belong to the permittee, and shall assume all outstanding obligations and liabilities of the permittee which the court may deem equitable in the premises: *And provided further*, That it shall be the duty of the Secretary of War to take such steps as may be practicable to terminate immediately and effectually any diversion of water in the United States from the Niagara River in violation of the provisions of the treaty between the United States and Great Britain, proclaimed May 13, 1910, concerning boundary waters between the United States and Canada: *And provided further*, That whenever the Secretary of War shall determine that the diversion of water herein authorized in connection with the amount of water diverted on the Canadian side of the river interferes with the navigable capacity of said river, or its proper volume as a boundary stream, or its efficiency as a means of national defense, he may revoke any permit: *And provided further*, That whenever the Secretary of War shall determine that the diversion of water herein authorized in connection with the amount of water diverted on the Canadian side of the river affects the scenic grandeur of the Falls of Niagara, he may revoke any permit after reasonable notice to the permittee of his intentions to make such revocation: *And provided further*, That in any case where the Secretary of War shall revoke any permit granted under authority of this act, he may remove, or cause the removal of, any structures or parts of structures, or any construction incidental to or used for the diversion of water or the transmission of power as herein provided, and such removal may be enforced by mandamus, injunction, or other summary process by application to the district court of the United States in the district in which such structure may in whole or in part exist, and proper proceedings to this end may be instituted under the direction of the Attorney General of the United States at the request of the Chief of Engineers or the Secretary of War.

Mr. CLINE. Mr. Chairman, I ask unanimous consent to withdraw the amendment that I offered.

The CHAIRMAN. The gentleman from Indiana asks unanimous consent to withdraw the amendment he offered. Is there objection?

Mr. SABATH. Mr. Chairman, is that the amendment that was read before this section was read?

The CHAIRMAN. The Chair so understands. Is there objection?

There was no objection.

The CHAIRMAN. The amendment is withdrawn.

Mr. HUDDLESTON. Mr. Chairman, is that the end of the paragraph?

The CHAIRMAN. That is the end of the section.

Mr. HUDDLESTON. I have an amendment to offer.

The CHAIRMAN. The gentleman from Alabama offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. HUDDLESTON: On page 10, line 5, after the word "War" add the following: "The Secretary of War may at any time before the expiration of any permit granted hereunder at his discretion cancel same and take over, or authorize any governmental bureau or agency or private permittee to take over, the diversion structures of any permittee and the plant, works, lands, lines, and property used in connection therewith, payment for same to be made at such price



as may be agreed upon by the Secretary of War and the permittee whose property is taken, or, if they can not agree, such price to be fixed by proceedings instituted for that purpose in the United States district court for the district in which said property or some part thereof is situated, but in no case shall the price exceed the actual cost of the property taken nor the value of the property at the time of the taking, and such price shall not include or be affected by the value of the franchise or good will or profits to be earned on any other intangible element: *Provided*, That in case of war or other emergency, to be judged of by the Secretary of War, the United States shall have the right hereby reserved to requisition and take possession of any or all of said property and operate the same for its own use and benefit as long as the necessity or emergency continues, and compensation for such use and occupation shall be determined and paid as heretofore provided in this section."

Mr. SABATH. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. SABATH. This is a very important amendment, and we ought to have a quorum. It seems to me there is no quorum present. I make the point that there is no quorum present.

The CHAIRMAN. The gentleman from Illinois makes the point that there is no quorum present. The Chair will count. [After counting.] Over 100 gentlemen are present, a quorum.

Mr. HUDDLESTON. Mr. Chairman, the amendment that I have offered is a recapture clause. It is the same in substance as the recapture clause in the Adamson bill, with this important exception: The Adamson bill provides for the recapture after the expiration of the grant or permit; the amendment I have offered provides for recapture at any time. In other words, under this amendment, if adopted, the Secretary of War may, at his discretion, cancel the permit and take over the works of the permittees. If that is done, then the permittees must be paid a fair price for the property taken over and all that is contingent to it—their works, plant, and so forth; the price to be ascertained by agreement, if possible, and if not by agreement, then by condemnation proceedings.

It is further provided by the amendment that the price paid shall not exceed the actual cost of the property taken nor its actual value. So that it safeguards, as fully as my ingenuity will permit me to attempt, the rights of the Government and the rights of the permittees.

The purpose of this amendment is to make this permit revocable—revocable at the will of the Government.

Mr. KENT. Mr. Chairman, will the gentleman yield?

Mr. HUDDLESTON. I will.

Mr. KENT. I would like to ask the gentleman whether in his amendment there is any specification as to what the Government would have to purchase in taking it over?

Mr. HUDDLESTON. There is. I am sorry I have not a copy of it, so that I could read it to the gentleman. But it includes the diversion structures, the plants, works, transmission lines, lands, and other property incident to the generation of electricity and the transmission of it.

I do not want to take away from the generating companies anything that belongs to them. I think if the Government elects to cancel their permits at any time, we ought to pay them the value of their property, but there is no reason for giving them anything more. There is not any reason at all for paying them any more, and therefore I have limited the price to be paid them to the actual value of their property, not exceeding its cost.

Mr. FLOOD. That is what the Adamson Act does.

Mr. HUDDLESTON. That is exactly the same as the Adamson provision, so far as the substance of it is concerned, with the exception that the Adamson provision only allows recapture after the expiration of the grant.

Now, there is reason why we should have the power of recapture at Niagara Falls, and not under the Adamson bill. The Adamson bill is of general application, applying to the country as a whole, and perhaps it might hamper development to give the power to revoke at any time, because capital could not be induced to invest. But at Niagara the capital is already invested, and it knows what returns it is going to get, and therefore there will be no added risk or hazard. It is an absolute certainty, and so my proposition protects, as fully as can be done, the rights of all parties.

Mr. OGLESBY. Does the gentleman think there should be the right of recapture irrespective of whether there is a breach by the lessees?

Mr. HUDDLESTON. I do. I do not think we ought to grant Niagara away without the power to take it back if we find it for the public welfare that that should be done. We can not tell when an emergency might arise that would cause the Government to find it very necessary to take over these works; and if we take them over and pay the company the cost and value, surely they can not complain. They are there, they have already made their investments, there is no hazard to be taken. It is a perfectly simple matter. I most strenuously object to the Federal Government yielding up this great

water power for 50 years without the ability to take it back again.

Mr. SMITH of New York. Suppose the Niagara Power Co. should rebuild their plant at a cost of \$20,000,000, and one year afterwards, after they had put in all this money, the Government should come in and say, "We are going to take this property over at cost." The money of the investors has been spent. They have had no interest on it, and it would be a practical confiscation of the property.

Mr. HUDDLESTON. The Government would pay for the property.

Mr. SMITH of New York. Actual cost, but no profit.

Mr. HUDDLESTON. Why should the companies have a profit if they get their money back? They have had the advantage of this water power. They know what they are doing—

Mr. SMITH of New York. They do not know.

Mr. HUDDLESTON. They have had the property for a year in the case the gentleman supposes. Why should we give them a profit on the investment that they made, other than that which they have earned? Would the gentleman say we ought to allow them 10 or 25 per cent above the money they have actually spent? How can he justify such a proposition as that?

Mr. SMITH of New York. They should certainly have more than it cost them. They should have interest on their money for that time.

Mr. HUDDLESTON. That is part of the cost. That is a part of the investment.

The CHAIRMAN. The time of the gentleman has expired. The question is on the amendment of the gentleman from Alabama.

The question being taken, on a division (demanded by Mr. HUDDLESTON) there were—ayes 10, noes 61.

Accordingly the amendment was rejected.

The Clerk read as follows:

SEC. 6. The Secretary of War, in granting any permit for the diversion of water under this act, shall include therein a provision requiring the payment to the United States of a reasonable annual charge, assessed on the basis of the quantity of water diverted. At the end of 20 years and every 10 years thereafter the Secretary of War shall readjust the annual charge as may then be just and reasonable.

SEC. 7. That no permittee under this act, nor any distributor of powers or energy generated by such permittee—

Mr. AUSTIN. Mr. Chairman—

Mr. SMITH of New York. Mr. Chairman, I move to strike out section 6.

Mr. FLOOD. Mr. Chairman, the gentleman is too late.

Mr. AUSTIN. I was on my feet demanding recognition to make a motion to strike out section 6.

The CHAIRMAN. The gentleman from Tennessee.

Mr. AUSTIN. Mr. Chairman, I move to strike out section 6.

The CHAIRMAN. The gentleman from Tennessee offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amend, on page 10, by striking out section 6, from line 12 down to and including line 19.

Mr. AUSTIN. Mr. Chairman, this bill in its present shape will not pass the Senate. That body has gone on record six times as against the legislative proposition contained in section 6. It has got to reverse itself for the last 8 or 10 years, because it has been against that proposition almost unanimously during that time. In other words, we must, in order to have this bill enacted, see a revolution in the United States Senate on section 6. We have to reverse the decisions of our highest court, the Supreme Court of the United States, for more than 100 years.

We have no right under any existing law, or under the Constitution of the United States, to take from the sovereign State of New York its rights and interests that it has enjoyed since the Constitution was adopted. Here is the National Government going afield and invading every nook and corner of the land to raise revenue to run the Government. We have actually gone in under recent revenue laws and taken the field of taxation which has been enjoyed heretofore by the respective States. The inheritance tax, the tax on theaters, moving pictures, billiards, and any number of occupations and trades which we have imposed taxes upon have heretofore been enjoyed by the States and municipalities. We have invaded that field. If we do not stop reaching out for direct taxation we are virtually going to rob the States of the opportunity to raise money to pay their expenses unless we tax the people practically to death on their personal property, business, and real estate. We have reached the period in legislation where we have drifted from the field of indirect taxation and invaded the field of direct taxation.

In this bill we are attempting to take from the State of New York, and every State in the Union, in violation of the decisions



of the Supreme Court, the rights of the States to own and control the water power in this country. The Government of the United States, according to the decisions of the Supreme Court based upon section 8 of the Constitution, from Chief Justice Marshall down to the 11th of December, 1916, have passed upon virtually the same issue involved in this bill and held that these rights belong to the States.

I know that we have been swept off our feet in this House by the belief that the National Government, because it had the right under the Constitution to look after navigation and commerce, owns the beds of the rivers and the banks of the streams and the waters in the rivers, and has the right to tax and use them, when the Supreme Court has said that the right belongs to the State.

According to a statement of a leading professor in the University of Tennessee—Prof. John A. Switzer—there is over 600,000 undeveloped horsepower within 75 miles of Knoxville, Tenn. Do you think in the face of the decisions of the Supreme Court of the United States that I am going to stand here and vote for a proposition which robs my State of the power of taxation on 600,000 horsepower; to take from the people of Tennessee and my constituents a source of revenue to run their local government given them by the fathers of the Republic and sustained by the Supreme Court of the United States for more than 100 years? You may put such a bill through this House, but there is not a man here who will be living when such a bill will ever be passed by an American Congress. [Applause.]

Now, what does this bill propose? It proposes to write a law which will force the power companies authorized and chartered under the laws of the State of New York to cancel and violate and destroy contracts which they made with the consumers of power. You have not that right. You attempt to exercise it, and no court of justice will permit you to do it.

They have up that very question in the proposed constitution of Mexico, where they are seeking to adopt a provision which will be a plain violation of contracts in Mexico, and this administration is insisting that these contracts, involving the rights of American business men in Mexico, shall be kept. While we are making at this very time protests against violating contracts in Mexico, the House of Representatives is attempting to write a law to do practically the same thing in the State of New York.

Now, we ought to have water-power legislation for the development of this country, but let us do it fairly, honestly, and in strict compliance with the law and in strict obedience to the decisions of the Supreme Court of the United States.

Mr. SABATH was recognized.

Mr. MILLER of Minnesota. Mr. Chairman, I was on my feet before the gentleman from Illinois was recognized.

The CHAIRMAN. The Chair did not see the gentleman.

Mr. MILLER of Minnesota. I will say to the Chair that I have risen 20 times this afternoon and have not yet been recognized.

The CHAIRMAN. The Chair will recognize the gentleman after the gentleman from Illinois.

Mr. COOPER of Wisconsin. A parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. COOPER of Wisconsin. How much time will there be upon this for debate?

Mr. SABATH. That can be settled later on.

Mr. COOPER of Wisconsin. I think there ought to be sufficient debate on this in view of the fact that the constitutional question has been raised, and we ought not to decide it in less than 10 minutes' debate on a side.

Mr. SABATH. Mr. Chairman, the gentleman from Tennessee [Mr. AUSTIN], who has preceded me, is very candid in the reasons that he assigns in favor of striking out section 6, which provides for reasonable compensation to the Government for the use of water for power purposes on the part of the permittees. The reasons he assigns are that in Tennessee they have water power capable of developing hundreds of thousands of horsepower, and that by adopting this provision we will establish precedent which might be followed in grants or permits given to water companies in his State. There are other gentlemen who are opposed to this provision upon the same grounds, but do not give the candid reasons in opposing this provision as he has given. As to the other objection he has raised, I believe we should not fear or take into consideration or be controlled by the other body of Congress. It seems to me that the gentleman from Tennessee [Mr. AUSTIN] is alarmed about the fact that the Senate will never agree to this provision. If the House is to be controlled completely by the action of the Senate, then let us disband and go home and permit the Senate to legislate on all important questions. I do not believe, how-

ever, that we should in any way deprive ourselves of the rights and privileges of legislating in this body. I myself am of the opinion that section 6 should remain in the bill, and I believe that any charge that the Government would exact from the companies that are now making millions each and every year would only partially compensate the Federal Government for the millions and millions that it expends upon the improvement of the various rivers in the United States. Section 6 provides:

The Secretary of War, in granting any permit for the diversion of water under this act, shall include therein a provision requiring the payment to the United States of a reasonable annual charge, assessed on the basis of the quantity of water diverted.

In view of the evidence given before our committee, in view of conditions, I believe it will be manifestly unfair and unjustifiable that we should turn over the water to these two companies without any compensation. For that reason I hope that the motion to strike out will not prevail.

Mr. MILLER of Minnesota. Mr. Chairman, I was not surprised at the speech of my splendid friend from Tennessee [Mr. AUSTIN]. He has kept his record clear, and he has kept the faith letter perfect. He has raised his voice, as he always casts his vote, against any kind of a tax. This tax provided for in this paragraph, if a tax is ever advisable on a water-power project, is proper here. First, as to its legality. Gentlemen, I think, are accustomed to confuse the right of the sovereign power of the United States to levy a tax due to its authority and control over, first, the navigability, and, second, the power latent in the moving water of a stream. A State undoubtedly has full authority and power over some features of water power, but it can not dispossess the United States of these two sovereign powers. The United States can or can not at its discretion grant a permit to make use of the water power latent in these moving waters. If it has the power to give the permit for their use, it has the power to prescribe the rules and regulations and conditions that shall surround that use, and one of those rules and regulations is a reasonable tax to be paid to the sovereignty that grants the right. Second, it does not necessarily interfere with the right of the State to tax that property which belongs to the State. This right is not a State right. This property is not a State property. There exists in certain water-power features something of State property and State rights. The State can tax that. That which belongs to the State the State can tax. We have in that respect the same dual sovereignty and the same dual right to tax that we find in a great many other subjects that have relation between the Federal Government and the respective States.

Mr. Chairman, this power to tax by the Federal Government is the one great strong power our Government will have to control and regulate the operation of these power companies. That power to tax is the supreme overwhelming power to regulate and control. It is at the very heart of the merit of the right of sovereignty acting in behalf of the people to regulate and control any interest of the people. It is beyond conception that if a State taxes these water-power companies, as they certainly will, the Secretary of War will not take that into consideration in levying any Federal tax.

If it be admitted, as I think it will be, that there shall be in the United States the right to tax these power companies abroad over the land as water power is developed, then there is no place where it more rightfully belongs than in this place where we find it here. The great power of Niagara is the greatest power God placed on the face of this earth. It belongs to the sovereign people of the United States and is entrusted by them, to be administered in their interest, to the Government of the United States. If we choose to prescribe limits and conditions under which power companies shall operate power plants, then we are but serving our constituents as we ought.

Therefore, Mr. Chairman, I sincerely trust whatever may be the views of some other gentlemen in some other body of this Government, that we adhere to the principle already established and we retain in the bill this paragraph, which enables this House, whether we use it much or whether we use it little, the power of regulating and controlling these great public-service corporations. [Applause.]

Mr. FLOOD. Mr. Chairman, I want to make a motion to fix the time for debate on the section and amendments thereto. I move that all debate on this section and all amendments thereto close in 30 minutes.

Mr. HEFLIN. I want five minutes now.

Mr. KAHN. Mr. Chairman, I have been recognized.

Mr. FLOOD. I will make it 35 minutes.

The CHAIRMAN. The gentleman from Virginia asks unanimous consent that all debate on this section and all amend-



ments thereto close in 35 minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. KAHN. Mr. Chairman, I believe in that kind of conservation which allows utilization with the maximum efficiency and the minimum waste. I am in favor of the amendment offered by the gentleman from Tennessee [Mr. AUSTIN]. There are a great many power companies already established at Niagara and elsewhere that do not pay anything to the General Government for the power which they obtain. They received their rights long before the question of conservation was discussed by the American people. You put a charge on any new company that is established and the old company can cut the price of its product just to the extent of the burden that the new company has to pay to the Government, and you will bankrupt the new company. [Applause.]

Mr. FLOOD. May I interrupt the gentleman?

Mr. KAHN. No; I have only five minutes.

Mr. FLOOD. But the gentleman has misstated the facts of the bill. This imposes this charge upon all companies who use that water, whether old or new.

Mr. KAHN. I was under the impression, of course, that it imposed a charge on the new companies.

Mr. FLOOD. No; the gentleman is mistaken.

Mr. KAHN. Will the gentleman answer me this question: How under the law can you impose that charge on the companies that are already existing and that have been using the water without any charge whatever?

Mr. FLOOD. The companies that are there had rights which have expired and they have no rights now. Every company has to go in and get rights under this law, and it imposes a charge upon every one of them.

Mr. KAHN. Then, of course, they will all pay for the power, so far as that goes.

Mr. AUSTIN. Will the gentleman yield to me to state this?

Mr. KAHN. Yes.

Mr. AUSTIN. These will be the only power companies in the United States charged this tax. The others on the Mississippi and Coosa Rivers and every other river of the United States escape.

Mr. KAHN. I was just going to call attention—

Mr. FLOOD. Not if the other bills pass the Senate.

Mr. KAHN (continuing). To the fact that this kind of legislation intrinches monopoly. It is in the interest of monopoly, because all over this country there are companies that received their patents or grants long before our so-called conservation policies were adopted. Those companies do not have to pay a cent for the water or the power to anybody. They can undersell the newer companies just to the extent of the amount that the Government charges the newer companies for the use of the water, and they will come pretty near bankrupting the latter concerns. The amount of power that is produced throughout the United States is very extensive. The quantity of power that is produced by old-established companies that do not pay anything to the Federal Government is exceedingly large, and this kind of legislation intrinches those companies in their monopoly. We have gone to the extreme with this conservation business. I believe that there should be regulation, but I do not believe that there should be such regulation or such financial burdens that prevent utilization. [Applause.] I am opposed to such legislation on principle. The business of this country will be materially benefited if we allow the beneficial use or utilization of this water so that the maximum efficiency can be secured with the minimum waste. Mr. Chairman, the development of the West is being seriously impeded by this kind of legislation. I have seen its evil effects in my State and the other States of the Pacific coast. Its entire tendency is to arrest development and to allow great quantities of water to run to the sea without having performed its useful service to man which its conversion into power would have made possible.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HEFLIN. Mr. Chairman, the trouble with a great many Members in this House is that when they serve here some length of time they forget all that they ever knew about local self-government and the rights and the powers that belong to the States. They come here and begin to legislate about matters that belong purely and wholly, singly and solely to the legislatures of the various States. And I am astounded as I sit here and see Representatives surrendering rights and powers that they ought to be safeguarding and protecting for their States.

We are to-day undertaking by congressional action to take away from the States a right and a power that nearly every Secretary of War since the foundation of the Government has held belongs to the States. We are undertaking this afternoon

to surrender a right and a power that the Supreme Court has held belongs to the States. Some gentlemen here are wanting the Federal Government now to go into the business of selling water power. The Federal Government has no jurisdiction, as a matter of right, over the sale of this water power developed by private capital in a navigable stream. Its power stops with the control of the stream for navigation purposes. The right to sell water power belongs to the States.

Gentlemen, the people at home must look with utter surprise and be astounded when they see their Representatives here surrendering that which they ought to be safeguarding for the State.

Mr. SABATH. Will the gentleman yield?

Mr. HEFLIN. I have not the time.

I am utterly surprised, Mr. Chairman, that Members will take this course. This question ought not to be considered here. Every government on the earth that has perished went down the road of centralization of power. The surrender of the power of the small units, and the States, to the national power, has been the road down which every government that has fallen has gone. Will we not profit by the mistakes of these governments of the past? Will we not steer clear of the pitfalls into which they stumbled and fell? Let us this day go upon record as preserving, as safeguarding, as holding to the States these rights that belong to them, and not as surrendering these rights. [Applause.]

Mr. BENNET. Will the gentleman yield?

Mr. HEFLIN. I will yield if I have the time.

Mr. BENNET. I just wanted to ask how the gentleman voted on the good-roads bill, the vocational bill, and on the child-labor bill?

Mr. HEFLIN. I think I voted for all of them. But that is a different proposition altogether. No Secretary of War had passed on them.

Mr. BENNET. How did the gentleman vote on the cotton-futures bill a few weeks ago?

Mr. HEFLIN. That is a different question altogether. That is a question of interstate commerce.

Mr. BENNET. That was left to the Secretary of Agriculture.

Mr. HEFLIN. That was a different question altogether, Mr. Chairman. I am surprised that the gentleman from New York wants to surrender the power that that State has and, by right ought to hold, to the Federal Government. I imagine it will be very pleasing to his constituents to know that he is here, instead of safeguarding their rights, smiling while he surrenders them. [Applause.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. COOPER of Wisconsin. Mr. Chairman, I have for many years maintained in this House that Congress, having the right, in its discretion, to grant a franchise permitting the use of the waters of a navigable stream to generate hydroelectric power, can in granting that franchise lawfully impose such terms and conditions as, in its discretion, may seem wise and in the interest of the people. This I have often said here, not as a Republican but as one who believed that the welfare of the people of the United States demands the firm maintenance of that principle.

Now, I ask the attention of my friend the gentleman from Alabama [Mr. HEFLIN] to what a distinguished Democrat said during a debate some years ago on this floor on a bill involving this principle. While the gentleman from Tennessee [Mr. AUSTIN] was speaking a few moments ago I remembered that in that debate a gentleman from Alabama by the name of Richardson maintained, or sought to maintain, the same proposition which his successor from Alabama is now seeking to maintain, namely, that this is purely a local, a State, matter, and that the Government of the United States has no power to require compensation for a privilege of this kind. After Mr. Richardson had finished there arose to answer him—and I remember it well—one of the ablest, most brilliant men I have ever known. I remember, too, that sometimes men used to criticize him merely, as I thought, because he was so gifted; and this reminds me of what Macaulay said in his discussion of Harley and Montague:

It is soothing to envy to believe that what is brilliant can not be strong; that what is clear can not be profound.

Now, Mr. Chairman, I read from the RECORD, page 4065, of March 28, 1908:

"Mr. Chairman, there can be no doubt in the mind of any man seeking merely the public good and public right, independently of any desire for local legislation, of this general proposition, that whenever any sovereignty, State or Federal, is required to issue a charter or a license or a consent, in order to confer powers upon individuals or corporations, it is the duty



of that sovereignty in the interests of the people so to condition the grant of that power as that it shall redound to the interest of all the people, and that utilities of vast value should not be gratuitously granted to individuals or corporations and perpetually alienated from the people or the States or the Government.

"Now, it is admitted—and, of course, I regret very much that in laying down any general law or any rule of conduct I should be compelled to come athwart any desire for legislation in the gentleman's district or anywhere else—but it is admitted that this power to erect dams in navigable streams can not be exercised by anybody except an act of Congress. Now, then, if it can require an act of Congress to permit any man to put a dam in a navigable stream, then two things follow: Congress should so exercise the power in making that grant as, first, to prevent any harm to the navigability of the stream itself, and, secondly, so as to prevent any individual or any private corporation from securing through the act of Congress any uncompensated advantage or private profit."

Who said this? JOHN SHARP WILLIAMS, then the Democratic floor leader. [Applause.] Was he trying dangerously to consolidate power in the National Government though professing only a desire honestly to protect the interests of the people? Did he so mistake his functions as a legislator here as to advocate a principle that tends to crush the liberties of the American people—the constitutional principle that when Congress has the exclusive power to grant a franchise it has the right, in its discretion, to impose conditions and terms? [Applause.]

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

Mr. LENROOT rose.

The CHAIRMAN. The gentleman from Wisconsin is recognized.

Mr. LENROOT. Mr. Chairman, the ease with which the gentleman from Alabama [Mr. HEFLIN] overrules the decisions of the Supreme Court of the United States is only equaled by the ease with which the gentleman from Tennessee [Mr. AUSTIN] misstates those decisions.

Mr. AUSTIN. Well, I challenge that statement.

Mr. LENROOT. I expected the gentleman would, and I say to the gentleman that there is no decision of the Supreme Court of the United States ever rendered that is in the least degree in conflict with the provisions that the gentleman now seeks to strike out of this bill.

Mr. AUSTIN. I will put them in the Record.

Mr. LENROOT. All right. I will be glad if the gentleman will do so. And he spoke of the Senate of the United States. The gentleman may not be aware of the fact that five or six years ago the ablest lawyers then in that body made an investigation of this very legal question and reported that it was entirely competent for the Congress of the United States to make just such a charge as this as a condition of a grant such as is contained here.

Mr. AUSTIN. And did the Senate vote on it?

Mr. LENROOT. I have not the time to go into that. If the gentleman is at all familiar with the decisions of the Supreme Court of the United States he must know that that court has held that the Government itself can construct these dams and that it has the right to sell any power that is generated by these dams; and if that be so, can it be true that it has not the power as a condition of a grant to some one else, to whom it gives the privilege of erecting these dams, instead of doing it itself, to impose as a condition of that grant that it shall pay a charge?

Now, Mr. Chairman, I have taken a somewhat active interest in water-power legislation since it has been before Congress. I have not been of the opinion that in every case a charge should be imposed, but only in those cases where by regulation the public will not get the benefit of the development.

This situation at Niagara Falls furnishes an excellent illustration of a case where a charge ought to be made. One of the users of this power is the American Cyanamid Co., a manufacturer of nitrates and fertilizers. It was testified by the officers of that company that they are now paying for power about one-half of the ordinary charge for power in the United States. It was testified by them that they could make money if they had to pay four or five dollars—I have forgotten the exact figures—per horsepower more than they are paying. That company is a monopoly. How is the public to get any benefit from the use of this water power by that monopoly except through the imposition of a charge?

Mr. SMITH of New York. That company does not get power from any company on the American side.

Mr. LENROOT. That may be. It is an illustration, however, of the point I am making; and whether it be the American Cyanamid Co. or whether it be some other manufacturing com-

pany that gets the power, the illustration holds good just the same. This is a case where the only way that the public can get any benefit is to have the right in the Secretary of War to impose a charge.

The gentleman from California [Mr. KAHN] says that to incorporate this section in the bill will intrench monopoly. I say to him that if you strike out of this bill the provision for a charge, you do intrench monopoly. You give to the manufacturer value which has not been created by him, which belongs to all the people of the United States; and the only way the public can get any benefit from that for themselves is to enable the Secretary of War, as a condition of the permit that is herein provided for, to impose such a charge as will give to the public some benefit of the development of the water power.

Mr. PARKER of New York. Who ultimately will have to pay this charge in the State of New York?

Mr. LENROOT. The American Cyanamid Co. charge all that they can get, short of the point where we would be able to import phosphates and nitrates from Chile. That is the measure of what they are charging the public now; and you might impose \$2 per horsepower per year upon that nitrate company if it got its power upon this side and the public would not pay one penny of that charge. You would simply reduce the dividends that the monopoly is getting, given to it by the people.

Mr. PLATT. If they have a monopoly, why could they not charge what they wanted to?

Mr. PARKER of New York. Does not the gentleman realize that every one of these companies is under the jurisdiction of the public-service commission of the State of New York?

Mr. LENROOT. Let us see. Here is a power company which furnishes power to a monopoly. Suppose you reduce the rate that the power company must charge the monopoly; you simply increase the dividends of the monopoly. How has your public-service commission of New York safeguarded the public interest by simply regulating the rates that a power company shall charge a monopoly? There is one way you can do it—by regulating the price of the product—and you can not do it in any other way except by imposing a charge.

Mr. LA FOLLETTE. Mr. Chairman, I have been greatly interested in this debate. I listened to the gentleman from Minnesota [Mr. MILLER], who claims the proud paternity of this particular section, and I also listened with interest to the gentleman from Tennessee [Mr. AUSTIN], who says that there are some 800,000 horsepower in his State, and he is not going to give up the right of his State to tax that 800,000 horsepower. In the State of Washington, which I have the honor to represent in part, we are credited by the Interior Department with having between 10,000,000 and 11,000,000 horsepower. Hundreds of thousands of this horsepower is in navigable streams. Now, I am willing to grant to the United States the charging of an excise tax on all the horsepower that may be developed in those streams, but I am not willing to grant to the United States that they have any inherent right to tax the water powers generated by the waters of that State. I am willing to concede that in all navigable streams they have control of the water for navigation purposes, but further than that I deny that they have a scintilla of right. I question very much whether they have any right above the Niagara Falls other than the right of saying whether or not the amount of water taken out of the stream would or would not interfere with navigation on the lower river. There has been a case decided in Michigan covering that point. Certain parties built a dam across the upper waters of a navigable stream above the point of navigation. The United States Government attempted to enjoin those parties. The case was carried into the courts, and the courts decided that while it did not interfere with the navigation on the lower river and while navigation was not injured the United States could not interfere. Those people still use the water above the point of navigation.

I claim that above Niagara Falls there is practically no navigation for commercial purposes on the little stretch of river from the lake to the Falls, and I question whether the Government has any right over the water there even for navigation. But when they undertake to interfere by making a charge for the use of the water on the New York side they are infringing on the rights of the State of New York. I think it behooves every man in this House who has a water power on a navigable stream to take issue with the United States having any control over them for any purpose except navigation purposes. [Applause.]

The gentleman from Wisconsin [Mr. LENROOT] said a few moments ago that they—the United States—had a right to put dams across a river. I admit they have, provided they put them there for navigation purposes. But they could be enjoined by a State or any two States in the Union if the stream



went between those States, if they should try to dam a river for any purpose not warranted by the needs of navigation, as the Supreme Court would decide they were exceeding their rights if it was for anything other than the purpose of navigation.

If they should build a dam for that purpose, and there was water power created thereby, I have no doubt the courts would say that they should have the right to charge for the use of that power, in case they wanted to make a charge, but they would have no inherent right under the law and the Constitution of the United States, and would be compelled to use or sell the water in compliance with the law of the State or States where the power was used or sold.

Mr. Chairman, one-third of the area of the State of Washington is in forest reserves, Indian reservations, national parks, and monuments that are barred from taxation at the present time and will be for many years to come. If the United States Government now sets up a claim to the inherent right to charge for the use of water power and to tax the individuals, companies, or corporations developing or using the water powers within the State, or waters contiguous thereto, and their contention should be sustained by the courts, then there is but little left to my State untrammelled by the claims of the Federal Government except the air we breathe.

The courts of both State and Nation have ruled for a century that jurisdiction over the waters of the States for other than navigation purposes was a prerogative of the States, and it has only been within the last decade that anyone has had the temerity to challenge that ruling. But of late years a few questionable reformers, in and out of Congress, have set up their ideas as superior to court rulings, and would take away from the various States of the Union the right to control the waters within their States for all other than navigation purposes and turn that power over to the bureaucratic control of some departments in Washington City.

Mr. Chairman, this bill is turning over to the Secretary of War functions that no stretch of the imagination could possibly say were his constitutional or natural functions. The Secretary is an appointee, liable to frequent change, and this bill is putting into his hands power and authority over things of which he probably will know nothing and making it his duty to perform services that the wildest enthusiast here for bureaucratic control will not expect him to personally perform or have any practical knowledge of. Such a law as this is farcical.

Many of the provisions of the bill are unwise and nonsensical. For instance, each permittee must "actually engage in the business of furnishing light, heat, power, and electric current," making it impossible for a permittee to engage in furnishing all of the energy he generates for one or more of these purposes. What good purpose can be served by such an arbitrary provision?

If the Secretary of War is allowed to fix an arbitrary tax at Niagara, will not the Congress allow him to fix an arbitrary tax at the Great Falls of the Missouri, Mont., or Kettle Falls, Wash? There is no provision of uniformity. It is dependent on the whim or the judgment of an appointee officer, is unwise and unsafe, and is an affront to the States, as it is an injustice. I sincerely hope, if it passes the House in its present form, it will not receive the concurrence of the body at the other end of the Capitol.

Mr. RAINEY. Mr. Chairman, yesterday in this House we considered the naval appropriation bill, and I sat in my seat as the various paragraphs in the bill were read and watched the amendments that were offered. Not a single amendment met with defeat, and every amendment added from \$20,000 to \$5,000,000 or \$6,000,000 to the bill.

#### OUR INCREASING NATIONAL EXPENDITURES.

One of the papers this morning stated that yesterday we added from the floor amendments amounting to \$15,000,000 to that one bill. The bill as reported is the largest bill ever reported out by the Naval Committee of this House in the history of the Government. The statement astonished me, and I went through the Record and found that the paper that made that statement was in error. We added to this bill yesterday in the House, without a murmur of opposition, over \$20,000,000. [Applause.] We propose to keep up evidently through the remainder of the consideration of the naval bill these amendments, and then add \$150,000,000 in bonds. In other words, when this bill passes this Congress it will carry in charges against the people of the United States twice as much money as any party in this country was ever able to raise by any system of tariffs on imports.

#### WHAT THE NAVAL BILL ALONE WILL CARRY THIS YEAR.

When that bill passes and becomes a law it will carry almost as much in bonds and in direct appropriations as we collected four or five years ago from all sources for the support of this Government, except the sale of postage stamps, which merely supports the Post Office Department of the Government.

#### REVENUE POSSIBILITIES OF OUR RIVERS.

We are asked now by certain gentlemen in this House to commence to-day to give away to the rapidly forming Water Power Trust in this country the very last of our national assets—the power of the moving water of our rivers as it flows down over declivities to the sea. We are developing in the country to-day seven or eight million horsepower of hydroelectric energy and a conservative estimate of the possible development within the next few years would be forty or fifty million horsepower.

Not long ago the Geological Survey issued its statement to the effect that it was possible to develop here in the rivers of this country 300,000,000 horsepower. We can develop there at Niagara by a proper conservation—not the method that is adopted now of posing the water—at the Falls and in the gorge below the Falls 7,000,000 horsepower. I do not know what the charge ought to be, but a conservative charge may be ultimately \$1 per horsepower. If we are to enter upon the proposition, which seems to be favored now in so many different directions, of conserving all the water that falls, impounding it and using it for irrigation purposes and then using it as it flows down the rivers to the sea, so that hydroelectric energy can be created, the prospects for the future after the period of this generation assumes enormous proportions. [Applause.]

#### THE FIGHT FOR CONSERVATION OF WATER POWER IS ALMOST WON.

I have been active for a number of years here in the House of Representatives and elsewhere in the movement to preserve for the National Government the possibility of at some time in the future deriving some suitable revenue for the Government out of the privileges we are asked here to grant to corporations and individuals. I have been active in the fight for a regulation of cost of hydroelectric power to ultimate consumers, and I have contended for an adequate recapture clause in all bills which pass this House, a clause which may enable the National Government to take over at some time in the future—50 years from now perhaps—structures which may be erected in our rivers where power may be developed, subject to a proper recompense to the owners of the dams and of the structures immediately connected therewith. The fight we have been making seems almost won. This bill will pass the House with the compensation clause in it, and with the other clauses also included for which we have been fighting so long. In the face of the growing expenditures of this Government, the effort to give away gratuitously this, the last of our national assets, from my viewpoint is indefensible.

#### A NATURAL MONOPOLY.

The development of hydroelectric energy is necessarily a natural monopoly. There can never be any competition between power plants, as has been suggested by the gentleman from California [Mr. KAHN]. Places where power can be developed in our rivers are widely separated. In order to properly develop hydroelectric power a number of power possibilities close together ought to be assembled. If there ever was a natural monopoly, the development of hydroelectric power belongs to that class. The cost to the ultimate consumer in the absence of some adequate regulation of price by the States or by the National Government must always be controlled by the competition of steam power developed from coal; but after steam plants are put out of existence by electrical power plants in the absence of proper regulation these power plants will have entire communities at their mercy.

#### THE DEMANDS OF THE STATES.

The demands of States upon the National Government are increasing. Appropriations from national funds are demanded for building of roads within States, for improvement of rivers and harbors within States, for the elimination of the boll-weevil and the gypsy-moth pests within States, and for a multitude of other things, and yet gentlemen on this floor advocate to-day that we must leave to the States alone the right to collect revenues from power possibilities in our navigable rivers. The effort now on the part of States is to place on the National Government enormous burdens which the States should assume and at the same time deprive the National Government of the right to collect its revenues from such possible sources as we are considering in this bill. This bill ought to pass with this provision for compensation in it. We can not give away to private monopolies this great national asset which belongs to the people of the United States. [Applause.]



Mr. McARTHUR. Mr. Chairman, this section of the bill provides that the Secretary of War may levy a "reasonable annual charge," and for this reason I hope the section will be stricken out. Granting, for the sake of argument, that Congress has the right to authorize the collection of a tax upon the developed water power of navigable streams, what excuse is there for a delegation of this important function to the Secretary of War? Why not settle the matter here and now? We are elected to legislate for the people of the United States, and questions of this character ought to be settled here in Congress—in our committees, which surely have enough brains and patriotism to settle them—without passing them on to the Secretary of War or any other Cabinet official. [Applause.] What is a "reasonable annual charge"? Fifty cents, or \$1, or \$2, or what? Is the Secretary of War any better qualified to determine this question than the committees of Congress? I am not speaking disrespectfully of the present Secretary of War, but am objecting to the growing tendency here in Congress to confer legislative power upon Cabinet officials. From time to time new Secretaries of War will be appointed, and we may get one, perchance, who may be a crank on this or that phase of the water-power question, and who will unjustly raise or lower the charge per horsepower. We have entered upon a mad career of delegating legislative powers to Cabinet officials, who must of necessity depend upon the reports of subordinates, and the whole machinery of the Federal Government is becoming top-heavy with bureaucracy. Congress has come to be a joke in the minds of many people, because we are emasculating ourselves and placing too much power in the hands of bureaucrats.

Mr. MADDEN. Mr. Chairman, will the gentleman yield?

Mr. McARTHUR. Certainly.

Mr. MADDEN. The gentleman admits that he himself does not know what the charge ought to be?

Mr. McARTHUR. Yes. I admit that, and I do not think the Secretary of War knows, either. I do think, however, that a committee of this Congress is competent to prescribe the rates of taxation—at least maximum and minimum rates—rather than delegate this important power to a Cabinet official who changes every four years, or oftener.

Mr. MADDEN. I think the orderly way to do it is to have some executive officer who has facilities to ascertain its value and fix the price.

Mr. McARTHUR. I do not agree with the gentleman; but my time is limited and I must pass to another phase of this question of taxation of water power. We are setting a bad precedent here by this legislation. Congress will soon be called upon to enact general water-power legislation, and those who favor the Federal tax will point to the Niagara River bill as an example and argue that all water power developed from navigable streams should bear a Federal tax. The unfairness of such a tax becomes apparent when we stop to consider that water power already developed pays no tax at all, while that which is to be developed, under the terms of such measures as may be enacted, must be handicapped by a tax. The products of the old and the new establishments must compete in the open market and the old concerns will enjoy a subsidy equivalent to the amount of the tax on the new industries and will be able to undersell them to that extent. Competition of that character can not continue long, for the concern that bears an unequal burden of taxation will go to the wall. If we are going to tax water power, why not do it in the shape of a revenue bill providing for a tax upon all concerns—those already in operation, as well as new ones that may be built and operated from time to time? In this way, all concerns will be treated alike. On the other hand, if we tax only the new industries, what becomes of our time-honored doctrine of "equal rights to all and special privileges to none"?

Mr. Chairman, I am not prepared to admit that the Federal Government has any legal right to tax water power. The Federal Government enjoys the right to regulate navigable streams for the purposes of navigation, but from what source does it derive its authority to tax the power of falling waters lying within a particular State? I am not discussing the Niagara bill, but have in mind general legislation and the contentions of gentlemen in this House who believe that any water-power bill passed by this Congress should provide for a Federal tax. The right to tax water power, if it is to be taxed, should be with the State, not with the Federal Government. I have argued against taxation in any form, unless water power heretofore developed shall also be taxed, but I realize that there are many who do not agree with me. If, then, for the sake of the argument, we are to levy a tax upon water power, why not leave the question to the States? This Congress has invaded the field of State taxation by levying on inheritances, excess profits, capital stock,

pool halls, billiard tables, motion-picture houses, and scores of other fields that should be left to State and municipal taxation. Now, it is proposed to levy a Federal tax on water power. All of this is invading the field of local taxation to such an extent that the burden of sustaining city, county, and State government is gradually shifting to the man who owns real estate—to the farmer and city property owner. The burden is becoming almost unbearable, so why not allow the States in which water-power projects are located to exercise the taxing function?

Mr. Chairman, the gentleman from Alabama [Mr. HEFLIN] sounded a note of warning about the surrender of power to the Central Government. He holds that such tendencies will destroy local self-government and menace the future welfare of the Republic. The gentleman is quite right, but time will not permit me to dwell longer upon that phase of the question.

Mr. Chairman, gentlemen have indulged in the old talk about "monopoly." It is an old bugaboo. They do not seem to realize that New York State and practically every other progressive State in the Union have public-service commissions that safeguard the people against monopoly and exorbitant prices. The cry of "monopoly" is very much like the cry of "fraud" that we so often hear after election day. [Applause.]

The CHAIRMAN. All debate upon this section and all amendments thereto is exhausted. The question is on the amendment offered by the gentleman from Tennessee [Mr. AUSTIN] to strike out the section.

The question was taken; and on a division (demanded by Mr. AUSTIN and by Mr. HEFLIN) there were—ayes 55, noes 85.

So the amendment was rejected.

The Clerk read as follows:

SEC. 7. That no permittee under this act, nor any distributor of power or energy generated by such permittee, shall unreasonably discriminate in service, charges, or otherwise between those to whom it shall supply power or energy, or who shall apply for same, and all such discrimination shall be unlawful and all contracts therefor, whether heretofore or hereafter made, are declared to be violative of public policy and void.

Mr. HUDDLESTON. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

After section 7 insert as a new section:

SEC. 8. That each approval under this act shall be conditioned upon the acceptance by the grantee of all the terms and conditions of this act and of terms and conditions specified in the approval, which acceptance shall be expressed in the approval as a part of the contract entered into.

Mr. FLOOD. Mr. Chairman, I reserve a point of order against the amendment. That is not an amendment to this section and it is not in order just now.

The CHAIRMAN. The Chair thinks the amendment is in order.

Mr. HUDDLESTON. Mr. Chairman, this amendment is copied word for word from the Adamson bill, and it seems to me to be a very important amendment. It is not phrased in exactly the language I would have used, but I copied it literally, word for word, from the Adamson bill, and it seems to me that we ought to adopt it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alabama.

The question was taken, and the Chairman announced the yeas seemed to have it.

On a division (demanded by Mr. HUDDLESTON) there were—ayes 28, noes 83.

So the amendment was rejected.

Mr. CLINE. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The Clerk will report it.

The Clerk read as follows:

Amend, by inserting after section 7, which ends with line 2, on page 11, the following:

SEC. 8. That at any time after the expiration of any permit made hereunder, upon six months' notice of intention to do so, given either before or after the expiration of the permit, the United States, or any person authorized by Congress, may take over such works used by the permittee for the generation and transmission of electrical energy which are dependent for their usefulness on the continuance of such permit: *Provided*, That by 'transmission' there shall be understood the wires, conduits, poles, or other devices used to convey electrical energy to the point of its application; but that nothing herein contained shall obligate the United States to purchase any property beyond such generating plant and transmission lines: *Provided further*, That the United States may also purchase, at its discretion, such lands and other property of any permittee acting under the terms of this act as in the judgment of Congress may be deemed advisable upon condition that it shall pay before taking possession, first, the reasonable value, not exceeding the actual costs of the works, constructed under the approval of plans and specifications, rights of way, water rights, lands, and interests therein purchased or taken over by it; and, second, the reasonable value of all other property taken over, including structures and fixtures acquired, erected, or placed upon the lands and included in the generation or transmission plant and which are dependent as herein above set forth, such reasonable value to be determined by mutual agreement between the Secretary of War and the permittee or owners of such property; and in case they can not agree, by proceedings instituted for that purpose in the



United States district court for the district in which said property or some part thereof is situated, but in no case shall the amount exceed the actual cost: *Provided*, That such reasonable value shall not include or be affected by the value of the franchise or good will or profits to be earned on pending contracts or any other intangible elements.

"That in the event the United States does not exercise its right to take over, maintain, and operate the properties as provided in this section, the Secretary of War may renew the approval of plans and specifications, either original or modified, upon such terms and conditions and for such periods as may be authorized under the applicable laws that may be in force at that time, or the Secretary of War is authorized, upon the expiration of any permit under this act, to approve terms and conditions under which a new permittee may operate such properties for such periods as applicable laws may then authorize upon the further conditions that the new permittee shall pay the original permittee for the properties as provided in this section."

"That where, in the judgment of the Secretary of War, the public interests requires or justifies the execution by any permittee of contracts for the sale and delivery of water power or electrical energy for periods extending beyond the life of the permit, but for not more than 20 years thereafter, such contracts may be entered into upon the approval of the said Secretary, and thereafter, in the event of the exercise by the United States of the option to take over the plant in the manner provided in this section, the United States or its new permittee shall assume and fulfill all such contracts."

During the reading of the above amendment,

Mr. FLOOD. Mr. Chairman, the three sections which constitute this amendment have been read to the committee in the amendment which the gentleman from Indiana offered before.

The CHAIRMAN. Has the gentleman any request to make?

Mr. FLOOD. I ask unanimous consent that the further reading be dispensed with now.

The CHAIRMAN. Is there objection?

Mr. MANN. What is it; to adopt an amendment without reading it?

Mr. FLOOD. It has been read.

Mr. MANN. Not to Members now present.

Mr. FLOOD. Well, if there is any objection that settles it.

Mr. MANN. I think it better be read.

The Clerk concluded the reading of the amendment.

Mr. CLINE. Mr. Chairman, this is taken word for word from the Adamson recapture clause, and contains no other verbiage of the bill which I included in the amendment when I offered it before.

Mr. SMITH of Minnesota. Mr. Chairman, I notice there are eight sections in the amendment which the gentleman offers.

Mr. CLINE. No; sections 5, 6, and 7.

Mr. SMITH of Minnesota. How much of the confidential print have you incorporated in the present amendment?

Mr. CLINE. Sections 5, 6, and 7 in the amendment.

Mr. SMITH of Minnesota. The confidential print commences with section 4.

Mr. CLINE. That included, as I stated before, what we wanted to incorporate in the bill so the Government could either take the plants over or could revoke the permit and compel the permittee to remove the property they had.

Mr. SMITH of Minnesota. And the gentleman eliminates that?

Mr. CLINE. I have eliminated that, and simply include the recapture language of the Adamson bill.

Mr. SMITH of Minnesota. This commences with section 5 of the confidential bill.

Mr. CLINE. Five, 6, and 7. The gentleman from Wisconsin can advise the gentleman.

Mr. SMITH of Minnesota. Is it the gentleman's intention to complete this bill to-night?

Mr. CLINE. Yes; we wish to do that, if we can get it to a vote. [Cries of "Vote!"]

Mr. NORTON. Mr. Chairman, I trust that this amendment may be added to this bill. I believe that the next few years will show economic and social changes in this Nation that will warrant the adoption of this amendment. Recently the three greatest electricians of the world have predicted that within the next decade an increased use of electrical power will take place such as the ordinary mind can not even imagine to-day. This is preeminently the age of electricity. Electrical power has come to be the greatest power in the world within a very few years. This great hydroelectric power at Niagara Falls, in my judgment, under the disgraceful greed that has been shown is practiced by the hydroelectric companies who have already been given permits to all this water power, and in simple fairness to the interest of the people who consume the power should be taken over now and operated by the Government. I am confident that within 10 years the great majority of the people of this country will demand and insist upon the ownership and operation of such great hydroelectric powers as this by the Federal Government. This water power is a natural monopoly, and the interests of the public will be abused as long as it is permitted to be operated for private gain.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana [Mr. CLINE].

The question was taken and the amendment was agreed to. The Clerk concluded the reading of the bill.

Mr. McARTHUR. Mr. Chairman, I ask unanimous consent to revise and extend my remarks.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. FLOOD. Mr. Chairman, I move that the committee do now rise and report the bill to the House with amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. ALEXANDER, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 20047) for the control and regulation of the waters of Niagara River above the Falls, and for other purposes, and had directed him to report the same to the House with sundry amendments, with a recommendation that the amendments be agreed to and that the bill as amended do pass.

The SPEAKER. Is a separate vote demanded on any amendment?

Mr. FLOOD. Mr. Speaker, I move the previous question on the bill and amendments to final passage.

The SPEAKER. The gentleman moves the previous question on the bill and amendments to final passage.

Mr. SMITH of Minnesota. Mr. Speaker, I want to inquire whether it is the intention to have a vote to-night?

Mr. MANN. I will say there is not. The gentleman need not inquire over there. I know how to stop it.

The SPEAKER. The question is on the motion for the previous question.

The previous question was ordered.

The SPEAKER. Is a separate vote demanded on any amendment? [After a pause.] The Chair hears no request.

The question is on agreeing to the amendment.

Mr. HUDDLESTON. Mr. Speaker, I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. HUDDLESTON. I wish to offer a motion to recommit. The SPEAKER. That can be offered after the third reading of the bill.

Mr. MANN. Mr. Speaker, I ask for a minute. It is the intention of some of the gentlemen to offer a motion to recommit and to insist upon a roll call, either through a point of no quorum or otherwise, as I understand. Unless we can get unanimous consent after the third reading is ordered I shall demand the reading of the engrossed bill, which will put it over until to-morrow, anyway.

The SPEAKER. Get unanimous consent for what?

Mr. MANN. To postpone the vote until to-morrow, after the vote is taken ordering it to a third reading.

The SPEAKER. The question is on the engrossment and third reading of the bill.

Mr. MANN. Before the third reading, I ask unanimous consent that the further consideration of the bill be postponed, to come up immediately after the reading of the Journal to-morrow.

The SPEAKER. That does not vitiate the rights of the gentleman from Alabama [Mr. HUDDLESTON] at all.

Mr. MANN. No; that protects his rights.

The SPEAKER. The gentleman from Illinois asks unanimous consent that further proceeding on this bill be postponed until to-morrow after the reading of the Journal and the clearing of matters on the Speaker's table.

Mr. HUDDLESTON. I object, Mr. Speaker.

Mr. MANN. Then I demand the reading of the engrossed bill. To do it by unanimous consent protects in every way the gentleman's rights. He can offer his motion to recommit to-morrow.

Mr. HUDDLESTON. Mr. Speaker, I withdraw my objection.

The SPEAKER. Is there objection to this bill going over for the third reading to-morrow. [After a pause.] The Chair hears none.

ELIZA McCLOSKEY (H. REPT. 1440).

Mr. LLOYD. Mr. Speaker, I present the following resolution from the Committee on Accounts.

The SPEAKER. The gentleman from Missouri presents a resolution, which the Clerk will report.

The Clerk read as follows:

House resolution 485.

*Resolved*, That the Clerk of the House be, and he is hereby, directed to pay, out of the contingent fund of the House, to Eliza McCloskey, widow of Patrick McCloskey, late the janitor of the Committee on Elections No. 2, a sum equal to six months of his compensation as such



janitor and an additional amount, not exceeding \$250, to defray the funeral expenses of said Patrick McCloskey.

The SPEAKER. The question is on agreeing to the resolution.

The resolution was agreed to.

SPEAKER PRO TEMPORE FOR TO-NIGHT.

The SPEAKER. The Chair appoints the gentleman from Virginia [Mr. SAUNDERS] to preside to-night.

MESSAGE FROM THE PRESIDENT—COMMISSION ON NAVY YARDS AND NAVAL STATIONS.

The SPEAKER laid before the House the following message from the President of the United States:

*To the Senate and House of Representatives:*

I transmit herewith, for the information of the Congress, Report No. 2 of the Commission on Navy Yards and Naval Stations.

The attention of Congress is especially called to the request and recommendation that certain portions of the report and appendices should not be made public.

WOODROW WILSON.

THE WHITE HOUSE, February 7, 1917.

The SPEAKER. The Chair will state that those portions that the President mentions in there have already been subtracted and handed to the Navy Department, and the Chair therefore refers the message to the Committee on Naval Affairs with orders that it be printed.

EXTENSION OF REMARKS.

Mr. SHALLENBERGER. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD by inserting an article on the unanimous adoption by the Legislature of Nebraska of a resolution indorsing the President's action.

The SPEAKER. The gentleman from Nebraska asks unanimous consent to extend his remarks in the RECORD as indicated. Is there objection?

There was no objection.

Mr. EMERSON. Mr. Speaker, I ask the same privilege.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

HEIRS AT LAW OF THOMAS TUMLIN.

Mr. BURNETT. Mr. Speaker, the bill H. R. 18565 is a bill that ought to be on the Private Calendar instead of the Union Calendar.

The SPEAKER. What is it?

Mr. BURNETT. It refers to the sale of certain land in Alabama to the heirs at law of Thomas Tumlin, deceased. It is a private bill. I ask that it be placed on the Private Calendar.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

EXTENSION OF REMARKS.

Mr. SMITH of Minnesota. Mr. Speaker, I ask unanimous consent to extend and revise my remarks in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. SABATH. Mr. Speaker, I ask the same privilege.

The SPEAKER. Is there objection to the gentleman's request?

There was no objection.

Mr. BURNETT. Mr. Speaker, I make the same request.

The SPEAKER. The gentleman from Alabama makes the same request. Is there objection?

There was no objection.

HOOR OF MEETING TO-MORROW—11 O'CLOCK A. M.

Mr. KITCHIN. Mr. Speaker, I ask unanimous consent that when the House adjourns to-day it adjourn to meet at 11 o'clock to-morrow.

The SPEAKER. The gentleman from North Carolina asks unanimous consent that when the House adjourns to-day it adjourn to meet at 11 o'clock to-morrow morning. Is there objection?

There was no objection.

RECESS.

Mr. KITCHIN. I ask unanimous consent, Mr. Speaker, to take a recess until 8 o'clock this evening.

The SPEAKER. The gentleman from North Carolina asks that the House stand in recess until 8 o'clock under the special order. Is there objection?

There was no objection; accordingly (at 6 o'clock and 25 minutes p. m.) the House stood in recess until 8 o'clock p. m.

EVENING SESSION.

The recess having expired, the House (at 8 o'clock p. m.) resumed its session, and was called to order by Mr. SAUNDERS as Speaker pro tempore.

ORDER OF BUSINESS.

The SPEAKER pro tempore. The Clerk will report the first bill on the Private Calendar.

Mr. MILLER of Delaware. I ask unanimous consent that we begin the Private Calendar at No. 443. That and the succeeding bills have been on the calendar since the beginning of this session of Congress, and after examining the calendar it appears that if we get through with them we will then be able to go back and start over again. The bills preceding No. 443 have been on the calendar before and have been objected to on previous occasions.

The SPEAKER pro tempore. The gentleman from Delaware asks unanimous consent to begin the calling of the calendar at the point indicated.

Mr. MOORE of Pennsylvania. What number?

The SPEAKER pro tempore. No. 443.

Mr. MOORE of Pennsylvania. The Private Calendar?

The SPEAKER pro tempore. Yes.

Mr. SMITH of Idaho. Reserving the right to object, it seems to me this is hardly fair to those who have had bills pending on the calendar for the last four or five or six months.

Mr. MILLER of Delaware. Will the gentleman yield right there? I only do this after consulting Members on both sides. The bills that the gentleman from Idaho refers to have already been called and objected to more than once. I think it is only fair to take up the new work more recently reported.

Mr. SMITH of Idaho. I do not think it is true that all the bills preceding the number to which the gentleman refers have been objected to, and it seems to me that if we start at the beginning of the calendar those which are not objected to can soon be disposed of. We should not overlook meritorious bills that have been on the calendar for four or five or six months to take up those more recently reported.

Mr. MILLER of Delaware. Nobody is more anxious than I am to have these bills considered, but the later bills on the calendar are new ones, and if we get through with them to-night we will possibly have another session for the consideration of the Private Calendar before we adjourn. I hope the gentleman will not object.

Mr. SMITH of Idaho. If you will take up Private Calendar No. 352 and consider it, I will not object; but I certainly do not think it is fair to those who have had bills on the calendar for a long time, and who have been waiting patiently for them to be reached, to begin at the point indicated by the gentleman.

Mr. MILLER of Delaware. If the gentleman wants to couple with my request a request that we take up No. 352, I have no objection.

Mr. STAFFORD. Mr. Speaker, I will not permit any favoritism to be played here this evening.

Mr. SMITH of Idaho. I do not think there is anyone else here who will object to my bill being considered.

Mr. STAFFORD. Others will come in later and will desire the same thing.

Mr. MILLER of Delaware. That is a Senate bill, and it will undoubtedly have a chance to pass before the session adjourns.

Mr. SMITH of Idaho. Before this evening's session adjourns?

Mr. MILLER of Delaware. Yes.

Mr. SMITH of Idaho. There are a good many bills on the calendar following the number which the gentleman has mentioned, but I will not object.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Delaware [Mr. MILLER] to begin the calling of the Private Calendar at No. 443?

There was no objection.

HENRY P. GRANT.

The Clerk read the title of the bill (H. R. 16827; Private Calendar No. 443) for the relief of Henry P. Grant, of Phillips County, Ark.

The SPEAKER pro tempore. Is there objection?

There was no objection.

The SPEAKER pro tempore. The Clerk will report the bill.

Mr. MANN. I ask unanimous consent that the Clerk report the committee amendment, which is a substitute, in order to save time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois that the Clerk report the committee amendment?

There was no objection.



The Clerk read the committee amendment, as follows:

Strike out all after the enacting clause and insert the following:

That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, the sum of \$7,598.24 to Henry P. Grant, formerly postmaster of Helena, Ark., said sum being the amount he voluntarily paid into the Treasury to make good the shortage of the assistant postmaster, William B. Lindsey, who was duly tried and convicted of said crime and punished by imprisonment in the penitentiary for a term of four years.

Mr. MANN. Mr. Speaker, I suggest to the gentleman from Mississippi [Mr. STEPHENS] that he ask unanimous consent that these bills be considered in the House as in Committee of the Whole.

Mr. STEPHENS of Mississippi. I submit that request. I intended to make it before, but was diverted by the request of the gentleman from Delaware [Mr. MILLER].

The SPEAKER pro tempore. The gentleman asks unanimous consent that these bills be considered in the House as in Committee of the Whole. Is there objection?

There was no objection.

The SPEAKER pro tempore. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, and was accordingly read the third time and passed.

#### ENROLLED BILLS SIGNED.

Mr. LAZARO, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles, when the Speaker signed the same:

H. R. 6732. An act for the relief of Joseph A. Jennings;

H. R. 11685. An act for the relief of Ivy L. Merrill;

H. R. 11288. An act for the relief of S. S. Yoder;

H. R. 7763. An act for the relief of Stephen J. Simpson;

H. R. 1609. An act for the relief of S. L. Burgard;

H. R. 11150. An act for the relief of mail contractors.

The Speaker announced his signature to enrolled bills of the following titles:

S. 7779. An act to authorize the change of name of the steamer *Frank H. Peavey* to *William A. Reiss*;

S. 7780. An act to authorize the change of name of the steamer *Frank T. Heffelfinger* to *Clemens A. Reiss*;

S. 5082. An act adding certain lands to the Missoula National Forest, Mont.;

S. 7782. An act to authorize the change of name of the steamer *Frederick B. Wells* to *Otto M. Reiss*; and

S. 7781. An act to authorize the change of name of the steamer *George W. Peavey* to *Richard J. Reiss*.

#### STEAMSHIP ESPARTA.

The next business on the Private Calendar was the bill (S. 3681) for the relief of the owners of the steamship *Esparta*. The SPEAKER pro tempore. Is there objection?

Mr. CULLOP. Mr. Speaker, reserving the right to object, I ask to have the bill reported.

The Clerk read as follows:

Be it enacted, etc., That the claim of the owners of the British steamship *Esparta* against the United States for damages sustained by them in and on account of the collision between their said vessel and the United States lighthouse tender *Magnolia* on October 26, 1905, in the Passes of the Mississippi River, below New Orleans, be referred to the District Court of the United States for the Eastern District of Louisiana, with jurisdiction and authority to determine the liability of the United States therefor, and, if found liable, to render judgment against the United States for any damages sustained by the owners of said steamship *Esparta*.

The SPEAKER pro tempore. Is there objection?

There was no objection.

The SPEAKER pro tempore. The question is on the third reading of the Senate bill.

The bill was ordered to be read a third time, was read the third time and passed.

#### ALEXANDER F. M'COLLAM.

The next business on the Private Calendar was the bill (H. R. 17781) for the relief of Alexander F. McCollam.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. I object.

#### ABSALOM C. PHILLIPS.

The next business on the Private Calendar was the bill (H. R. 7487) for the relief of Absalom C. Phillips.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. Mr. Speaker, I object.

Mr. TILLMAN. Mr. Speaker, will the gentleman reserve his objection for a moment?

Mr. MANN. Certainly.

Mr. TILLMAN. Mr. Speaker, this is a very modest bill, and from the proof that I have in my possession there is no question about the equitable right of this man to recover. The bill is for only \$447.16, and the Committee on War Claims, after hearing the proof, reported unanimously in favor of the bill. Mr. Phillips is a Union soldier, living in Newton County, in my district. He is a Methodist clergyman, a poor man, but a man of excellent influence and high character. He was appointed or elected second lieutenant of his company on September 9, 1863, and at once began serving as second lieutenant, and went abroad to recruit the company, Company E, Second Regiment Arkansas Volunteer Infantry, of which he was elected or appointed second lieutenant. He served in that capacity from that time on until the close of the war, and was a brave and able officer. He did not get his commission as second lieutenant until February 24, 1864. This bill is merely to pay him the difference between the salary of a second lieutenant and that of a first sergeant during these months when he was actually serving as second lieutenant, but during which time he did not have his commission.

Mr. MANN. And under the law he could not have a commission. There are probably thousands of these claims. There have been a great many before Congress which have not been paid.

Under the law a man could not get a commission unless the company was recruited to a certain strength. I do not think we ought to open up these claims now and commence to pay them after all these years. There are many, many of them.

Mr. TILLMAN. The Supreme Court has held that if a man is appointed to a position and performs the work that falls to him under that appointment, the fact that he did not get a written commission does not preclude him from collecting the salary due him under the appointment.

Mr. MANN. The law expressly provided that he could not have a commission or the pay.

Mr. TILLMAN. I do not understand it that way.

Mr. MANN. That is undoubtedly the case. I have had these cases many times.

Mr. TILLMAN. Here is a man who actually performed this service, and he certainly is not to blame if he did not get his commission. He performed the service, recruiting his company, wore the uniform of a second lieutenant, many times served as captain in the absence of his superior officer, and is not responsible for his failure to get his commission until some months after his promotion.

Mr. MANN. No; but the law is responsible. The law did not permit the commission to be granted to him until the company was recruited to a certain strength. There are many of those cases. The law specifically provided that they could not commission the new officers unless the companies were at a minimum strength. His company was not. He could not be granted a commission until his company was recruited to the minimum strength.

Mr. TILLMAN. He certainly is entitled to this relief, which is both just and equitable. I ask to be allowed to challenge and refute the facts as understood by the gentleman from Illinois.

Mr. MANN. I think he was in luck to get the commission in the end.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. I object.

#### REIMBURSEMENT OF ROBERT REID AND CHARLES C. ECKLIFF.

The next business in order on the Private Calendar was the bill (H. R. 18421) to reimburse Robert Reid and Charles C. Eckliff, United States local inspectors of steamboats, for defending themselves on account of their arrest and prosecution growing out of the steamer *Eastland* disaster on the Chicago River July 24, 1915.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. Mr. Speaker, I object.

Mr. MAPES. Mr. Speaker, will the gentleman withhold his objection for a moment.

Mr. MANN. Mr. Speaker, I reserve the right to object.

Mr. MAPES. Mr. Speaker, I appreciate the fact that the gentleman from Illinois [Mr. MANN] is probably familiar with the *Eastland* disaster as it occurred on the Chicago River, although I would like to direct his attention to certain features in connection with this bill.

Mr. MANN. I have read all the reports and all the opinions in the case very carefully, I will say to the gentleman, and I do not think it is a debt of the Government.

Mr. MAPES. Mr. Speaker, I do not say that it is a legal debt, but it is a meritorious and equitable bill. I will say to the



gentleman I have investigated the precedents, and I find precedents similar to this. For example, in Thirty-fifth United States Statutes, page 1525, is an act for the relief of S. R. Hurley passed in the Sixtieth Congress. Mr. Hurley was a member of a posse of men who in July, 1905, under the direction of a deputy collector of internal revenue, were engaged in discovering illicit stills in the mountains in the vicinity of Jean, on the line between Kentucky and Virginia. The operators of the stills opened fire on the officers, which was returned, and two of the illicit distillers were killed. Hurley and five others of the posse were indicted by the State of Kentucky, and of course had to make a defense.

The indictment was prosecuted at the instigation of the distillers, who were determined that the men be convicted if possible, but they were acquitted. A bill was introduced to reimburse Hurley for his expenses in carrying on his defense. Congress, after submitting the matter to the then Secretary of the Treasury, Mr. Cortelyou, and to the then Attorney General, Mr. Bonaparte, passed the bill. Both the Secretary of the Treasury and the Attorney General recommended the passage of the bill. The Attorney General said, among other things, in his letter recommending its passage:

Hurley appears from these papers to have been put to considerable expense in and about his defense to a criminal prosecution and a civil suit based upon the foregoing facts. This department thinks it advisable, as a matter of public policy, as well as of justice, for the Government to protect officers who have faithfully performed a dangerous public duty and by reason thereof have become involved in expensive litigation.

Now, as the gentleman from Illinois says he has read the report of the committee, which goes into this matter very fully, he will notice that these men went from Grand Haven, Mich., voluntarily to Chicago at the request of their superior officer, the Secretary of Commerce, Mr. Redfield. They testified voluntarily in the hearing which was conducted there, even after they were unjustly arrested by the State authorities of Illinois, handcuffed, and marched through the streets of Chicago. Afterwards they were released upon a writ of habeas corpus, the grand jury of the State of Illinois returning no indictment against them, but they were indicted by the Federal grand jury twice and were put to a great deal of expense. The Federal district judge in the city of Grand Rapids, for the western district of Michigan, after a full hearing, held there was no evidence that tended to show that they were guilty of any of the charges in the indictment. To use his language:

The evidence in this matter wholly fails to establish probable cause for believing any of these defendants guilty of any crime charged in the indictments.

These expenses were incurred by them in the performance of their duty as officers of the Federal Government. I have other precedents here which I would be glad to call to the attention of the gentleman from Illinois [Mr. MANN] if it would cause him to withdraw his objection to the consideration of this bill.

Mr. MANN. I will say to the gentleman, I think I am familiar with the greater portion of the precedents but I will be very glad to examine the rest of them. I have a great deal of sympathy for these inspectors and did not join in the feeling against them, but I do not think we are under any obligation to pay these legal expenses. I think they got off pretty well. I would be very thankful if I had been in their place to get off as well.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. I will examine the rest of the precedents.

Mr. MAPES. I think the gentleman from Illinois must take the finding of the court as conclusive that there was no reasonable cause for the indictment against these inspectors.

Mr. MANN. I would think more of them if they had submitted to trial, I will say to the gentleman.

Mr. MAPES. But they would have had a great deal more expense if they had been required to go to Chicago to defend themselves, and they were strictly within their rights in resisting the warrant for their removal to Chicago.

Mr. MANN. Very likely.

Mr. MAPES. I would like to read for the benefit of the gentleman and the House a part of the opinion of the court—

Mr. MANN. I have read the opinion of the court. The gentleman can read that for somebody else's benefit, not mine. I have read it.

Mr. MAPES. Perhaps this particular part may have escaped the attention of the gentleman:

Aside from the fact that the vessel capsized and the testimony of one witness whose theories are shown to be incorrect by actual experience and indisputable facts, there is no satisfactory evidence to sustain these allegations of the indictment. Every other witness competent to testify upon the subject has said that the ship, if properly handled and navigated, was seaworthy and was capable of carrying in safety the number of people on board of her at the time of the accident. She was not in a leaky condition and was not lacking in necessary and proper

equipment. She was constructed with water-ballast tanks, and if a sufficient number of the tanks had been filled with permanent water ballast she would not have been top-heavy with any load which she was authorized to carry.

Mr. MANN. Let me say to the gentleman that there are many people in Chicago who believe that the General Government ought to recompense the families of those who lost their lives, as they think, because of the negligence of these two inspectors. I do not agree with that. I do not think the Government is responsible. I have said that to these people, who have some sort of a union or organization in order to try to get the General Government to pay because of the negligence of these inspectors. I do not think we are responsible. I do not think we are responsible for the inspectors getting off scot free. I have some doubt as to whether they are guilty or not guilty.

Mr. MAPES. These inspectors were officers of the Government and were performing a public duty.

Mr. MANN. They were officers of the Government charged with the performance of a public duty. Some people do not think they performed it. I do not think that has anything to do with this question.

Mr. MAPES. The gentleman reiterates that so much, I am afraid he has imbibed some of the prejudice against these inspectors which the other people of Chicago have to which he calls attention.

Mr. MANN. I do not see how we can recompense these inspectors unless we recompense probably the families of the people who lost their lives. There were a great many of them.

Mr. MAPES. I submit that the cases are very much different. The SPEAKER pro tempore. Is there objection?

Mr. MANN. I object.

The SPEAKER pro tempore. The Clerk will report the next bill.

J. L. BONNER.

The next business in order on the Private Calendar was the bill (H. R. 16407) for the relief of J. L. Bonner.

The SPEAKER pro tempore. Is there objection? [After a pause.] The Chair hears none.

The bill was read, as follows:

A bill (H. R. 16407) for the relief of J. L. Bonner.

*Be it enacted, etc.,* That the title of J. L. Bonner, in and to the northwest quarter of the southeast quarter of section 30, township 10 north of range 10 west, St. Stephens survey, Jones County, Miss., be, and the same is hereby, quieted and confirmed, and patent therefor shall issue to the said J. L. Bonner.

Also the following committee amendments were read:

Strike out the words "title of," in line 3, and insert the words "Secretary of the Interior be, and he hereby is, authorized and directed to issue patent to."

In line 4, strike out the comma, after the word "Bonner," and the words "in and to" and insert the word "for."

In line 9, strike out the period, after the word "Bonner," and insert a comma, and insert the words "upon his paying to the Government the sum of \$1.25 per acre."

The SPEAKER pro tempore. The question is on agreeing to the committee amendments.

The amendments were agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

#### RIVERSIDE MILITARY ACADEMY.

The next business in order on the Private Calendar was the bill (H. R. 16855) for the relief of Riverside Military Academy.

The SPEAKER pro tempore. Is there objection to the consideration of the bill? [After a pause.] The Chair hears none.

The bill was read as follows:

A bill (H. R. 16855) for the relief of Riverside Military Academy.

*Be it enacted, etc.,* That Riverside Military Academy and its bondsmen be relieved of all responsibility on bond given to the United States by the Riverside Military Academy for the loss of two cutters and their outfits, valued at \$1,608.77, which property was destroyed by a storm on the night of December 31, 1915.

Also the following committee amendment was read:

Line 3, after the word "Academy," insert the words "at Gainesville, Ga."

The SPEAKER pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

GEORGE L. THOMAS.

The next business on the Private Calendar was the bill (H. R. 4417) for the relief of George L. Thomas.

The SPEAKER pro tempore. Is there objection to the consideration of the bill?

Mr. MILLER of Delaware. Mr. Speaker, a bill similar to this in every respect passed the Senate last night and is now on



the Speaker's table—S. 2749. I ask unanimous consent that the Senate bill be substituted in lieu of the House bill on the calendar.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Delaware? [After a pause.] The Chair hears none.

Mr. FOSTER. Mr. Speaker, let us hear the bill read first.

Mr. MILLER of Delaware. I just sent the Senate bill to the desk.

The SPEAKER pro tempore. The Clerk says it is not here.

Mr. MILLER of Delaware. I took pains to look it up, and saw it there this morning.

The SPEAKER pro tempore. What is the number of the Senate bill?

Mr. MILLER of Delaware. It is S. 2749.

The SPEAKER pro tempore. The Clerk will report the Senate bill.

The Clerk read as follows:

An act (S. 2749) for the relief of George L. Thomas.

*Be it enacted, etc.,* That the Postmaster General be, and he is hereby, authorized and directed to credit the accounts of George L. Thomas, postmaster at New Bethlehem, Pa., in the sum of \$5,711.93, and to certify the said credit to the Auditor for the Post Office Department, being the amount of money-order funds embezzled by Ella E. Latimer, an employee in said post office, without fault or negligence on the part of the said George L. Thomas.

Mr. FOSTER. Mr. Speaker, may I inquire why the—

Mr. SABATH. Mr. Speaker, reserving the right to object, I would like to have a little information on this bill. I would like to know what it is about.

Mr. EDMONDS. The Thomas bill?

Mr. SABATH. Yes; the bill that was read just now.

Mr. EDMONDS. Mr. Thomas was postmaster at New Bethlehem, Pa. During his postmastership or during the preceding postmastership the young lady who had charge of the money-order fund embezzled this amount of money.

Mr. SABATH. Was not he or she under a bond?

Mr. EDMONDS. She was under a bond.

Mr. SABATH. Well, what became of the bondsmen?

Mr. EDMONDS. The bond was not sufficient to cover the amount she embezzled.

The Secretary of the Treasury says:

There is no evidence in the Auditor's office tending to show that Postmaster Thomas did not exercise proper supervision over the affairs of his office. I believe, therefore, that the bill is meritorious, and I recommend that it be given favorable consideration.

Mr. SABATH. What was the total amount of the embezzlement?

Mr. EDMONDS. Six thousand one hundred and eighteen dollars and eighty cents.

Mr. SABATH. What was the amount of the bond?

Mr. EDMONDS. Evidently about \$500. I suppose it was that. This Miss Latimer was indicted and was sentenced to jail for 30 days and required to pay a fine of \$6,118.80, which she did not do. She made false entries in the cash book.

Mr. SABATH. How large a city was this?

Mr. EDMONDS. I do not know.

Mr. SABATH. That is a rather small bond for a postmaster.

Mr. MANN. That was not the postmaster's bond.

Mr. SABATH. Whoever the clerk was who handled the funds, the bond should have been sufficient. I would like to know if the money was recovered from the bondsmen.

Mr. FOSTER. No.

Mr. SABATH. If there is a defalcation and people come down here for relief, and if bond is given, it ought to be enforced and paid.

Mr. EDMONDS. Miss Latimer's sureties have since refunded \$375.

Mr. HASTINGS. Did the Post Office Department recommend it?

Mr. EDMONDS. Yes.

Mr. MANN. I understand a suit is pending to recover this amount from the bondsmen. The Post Office Department says, however, that there was no fault on the part of the postmaster. The money was embezzled by a classified clerk of the civil service, employed under the bond fixed by the Post Office Department, without the fault of the postmaster. At least, that is what the inspector reports. Of course, the postmaster's bondsmen are liable.

Mr. SABATH. I do not like to impose hardships upon innocent people, but a great many bonds are given, and when there is a default some of these companies that advertise that they pay their obligations do not meet their obligations. I would like to know whether this surety company has paid its obligation and paid the bond?

Mr. MANN. Well, there is a suit pending against the postmaster or his bondsmen to recover this amount, and I am told

that the postmaster will have to pay it if we do not relieve him, not the surety company. This case is a good deal similar to the Chicago case that we had a few years ago, that we passed, relieving the Chicago postmaster of \$173,000.

Mr. SABATH. I know; and we have relieved the surety companies of that obligation.

Mr. COX. I agree with the gentleman that he is striking at a very vital point. The Post Office Committee has done its best in the last four or five years to get rid of this very evil by a law whereby the bonding company will be taken out of this and a fund contributed by the employees themselves.

Mr. SABATH. I say that there are some companies that pay their obligations. I wanted to know if others do or not.

Mr. HASTINGS. Do I understand the gentleman from Pennsylvania [Mr. EDMONDS] to say that this clerk who embezzled the money was tried and given only 30 days?

Mr. EDMONDS. That is what the report says. She was sent to the Armstrong County jail for 30 days and sentenced to pay a fine of \$6,118. Since then \$375 has been refunded. That was in the Federal court.

The SPEAKER pro tempore. The question is on the third reading of the Senate bill.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

A House bill of similar tenor (H. R. 4417) was laid on the table.

The SPEAKER pro tempore. The Clerk will report the next bill.

ROBERT HILDEBRAND.

The next business on the Private Calendar was the bill (H. R. 8950) for the relief of Robert Hildebrand.

The title of the bill was read.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. I object.

The SPEAKER pro tempore. Objection is heard. The Clerk will report the next bill.

W. L. ROSE.

The next business on the Private Calendar was the bill (H. R. 17304) for the relief of W. L. Rose.

The title of the bill was read.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. I object.

The SPEAKER pro tempore. Objection is heard. The Clerk will report the next bill.

Mr. EDMONDS. Mr. Speaker, will the gentleman reserve his objection for a moment?

Mr. MANN. Yes.

Mr. EDMONDS. I would like to call attention to the fact that while our committee has not brought out these claims for lost clothing as a general thing, in this case every man on this boat was reimbursed except this man, W. L. Rose, and it seemed only just and fair to the committee that we should reimburse him in common with the rest of them.

Mr. MANN. Well, Mr. Speaker, there are a great many bills of this character on the calendar, and more constantly coming, on the assumption that the United States insures the clothing and personal effects of officers and employees of the Government who go upon the sea. I do not think we do insure them. Nobody thinks we insure them if they get hurt on the railroad. We have not got to that point yet, but soon will, if we go on the assumption that we insure their personal effects when they go upon the sea. They can insure them themselves, if they want to, or, if not, they can do without the insurance.

Mr. EDMONDS. I call the attention of the gentleman to the fact that when there is a loss of clothing or personal effects by anybody connected with the Navy, the Navy Department pays for it, and there is a fund intended for their relief in this respect.

Mr. MANN. I know we have started to do that, much to my regret and against my will. I object.

The SPEAKER pro tempore. The gentleman from Illinois objects. The Clerk will report the next bill.

ISABEL E. ROCKWELL.

The next business on the Private Calendar was the bill (H. R. 6207) for the relief of Isabel E. Rockwell.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection?

There was no objection.

The bill was read as follows:

*Be it enacted, etc.,* That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Isabel E. Rockwell, widow of John V. Rockwell, deceased, late rural mail carrier on route No. 1, of Carpinteria, Cal., the sum of \$1,500.



With the following committee amendment:

Page 1, line 8, strike out "\$1,500" and insert "\$990."

The committee amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, and was accordingly read the third time and passed.

EUGENE FAZZI.

The next business on the Private Calendar was the bill (H. R. 17406) for the relief of Eugene Fazzi.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection?

There was no objection.

The bill was read, as follows:

*Be it enacted, etc.,* That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Eugene Fazzi the sum of \$5,000 as compensation for the loss of a foot on March 8, 1916, while in the discharge of his duty as a deckhand on the steamship *General Joseph E. Johnston*, in the service of the Quartermaster's Department, United States Army.

With the following committee amendment:

Page 1, line 6, strike out "\$5,000" and insert "\$720."

The SPEAKER pro tempore. The question is on the committee amendment.

Mr. BROWNING. Mr. Speaker, I hope this committee amendment will not pass. Eugene Fazzi was a young man, I should say, about 25 or 26 years of age. While employed on the steamer *General Joseph E. Johnston*, in the service of the Quartermaster's Department of the Army, on a slippery day last March his leg was caught in a rope with which they were trying to fasten the boat to the wharf. His leg was severed above the knee and fell into the Hudson River. Since that time he has been unable to obtain any employment whatever. He has never received anything from the Government except an artificial leg that he can not use as yet. We hope he will be able to use it later. He has made application for employment in a number of positions but has failed to receive any. He is a machinist, and on account of the loss of his leg, and the liability under the workmen's compensation laws, they will not accept him for employment. I endeavored to get him a position as a telephone operator in the Government service. He was refused. I asked the Civil Service Commission to suspend the civil-service rules so that he could get such a position, and they refused. I think that to give a young man in his twenties, crippled for life, only \$720 for the loss of a leg is an outrage, and I think the amount for which I introduced this bill, \$5,000, is a very small amount. I hope the committee amendment will not be agreed to.

Mr. OVERMYER. Will the gentleman advise us how long this man was in the service?

Mr. BROWNING. I do not know, and it does not make any difference. If he was there only one day, he was in the discharge of his duty, the same as a man going to war and getting killed or wounded. He never told me how long he was in the service.

Mr. COX. How much would he get under the Federal employees' liability act?

Mr. BROWNING. I have not the least idea. Under the old act he is not able to get anything.

Mr. COX. I do not think it would apply to him.

Mr. BROWNING. I do not think so, either.

Mr. COX. I am just wondering whether he would get more under the Federal employees' liability act than he would under the amendment set out in this bill.

Mr. BROWNING. I should think he would. I do not think \$720 for a young man who is crippled for life and unable to get a position is any kind of compensation when his injury was received through no fault of his own.

Mr. STEPHENS of Mississippi. Under the law this man would not receive anything; and the committee in acting on this case followed the policy that has been pretty generally adopted by the committee in regard to making allowances in cases of personal injury; that is, to allow one year's salary. The committee were informed that this man was receiving compensation at the rate of \$720 a year, and that is the amount that the committee have allowed.

Mr. STAFFORD. Under the new law would not that be for more than a year?

Mr. STEPHENS of Mississippi. Perhaps so; but this man would not receive anything at all under the compensation act. He did not fall within the class who received compensation.

Mr. STAFFORD. My impression is that in the case of a permanent injury his compensation would run as long as he lives.

Mr. STEPHENS of Mississippi. In a case of total disability I think, perhaps, it would be 66½ per cent of his salary for a period of two years.

Mr. BROWNING. Under the last compensation act he would have to apply before the 4th of March, even if the case came under that law. It allows persons injured one year's time in which to apply. He was injured, I think, on the 4th of March, 1916.

Mr. YOUNG of North Dakota. Has he never worked since?

Mr. BROWNING. He has never worked since, and has been unable to get a position.

Mr. MILLER of Delaware. It is a pretty heart-rending task to serve on this committee, on these personal-injury cases. But to substantiate what the chairman of the committee has said, I want to state to the gentleman that in only two cases last year, and those where there was total disability, where people were strapped on their backs and helpless from paralysis, have we ever allowed more than a year's salary.

Mr. BROWNING. That does not make it right.

Mr. MILLER of Delaware. One was for \$3,000 and the other was for \$5,000.

Mr. BROWNING. Here is a young man in the early prime of life, 25 or 26 years old, deprived of the capacity to earn a living for the balance of his life on account of this accident, which occurred through no fault of his own. Capt. Bernard, who commanded the steamer, has written me to that effect, and has sent me a great many letters to try to have this bill passed to allow the compensation stated in the bill as I introduced it.

Mr. YOUNG of North Dakota. The gentleman from Delaware says that that has been the policy of the committee. I think it has been because we found in the past that the House would not stand for more than one year's salary. I think now in a case like this the House might be a little more liberal.

Mr. STAFFORD. I think there have been a number of cases in which they have been more liberal.

Mr. STEPHENS of Mississippi. I do not think there have been cases where we ever allowed more than one year's salary.

Mr. STAFFORD. Since Congress passed the workmen's compensation act has the committee been guided in their allowance by the amount that would have been allowed the claimant by the terms of that act?

Mr. STEPHENS of Mississippi. No; in matters like this, for a gratuity, we have been following the same policy adopted prior to that time.

Mr. BROWNING. Mr. Speaker, I move to amend by striking out "\$720" and inserting "\$2,500."

The SPEAKER. The gentleman from Mississippi has the floor.

Mr. BROWNING. I beg the gentleman's pardon. I thought he had finished.

Mr. STEPHENS of Mississippi. I demand the regular order.

Mr. BROWNING. Then, Mr. Speaker, I make a motion to amend by inserting "\$2,500."

Mr. MANN. Does not the gentleman from New Jersey know that that will probably kill the bill, either in this body or in the other body? We have occasionally, not wisely, passed bills giving a larger amount than would have been allowed parties that came within the law. I think invariably—there might be an exception—the Senate committee turned it down. There is no probability that this bill will ever become a law with the amount changed, either in this Congress or in any other. I think it is a question of whether the gentleman wants to get \$720.

Mr. BROWNING. I will admit, Mr. Speaker, that \$720 would come in very handy to this young man. The family is in destitute circumstances.

Mr. MANN. His family is in the same fix that thousands of others are.

Mr. BROWNING. I think that \$720 is a ridiculously low sum to pay any young man who has lost a leg.

Mr. MANN. But there is a possibility that he may not get anything at all.

Mr. STEPHENS of Mississippi. Mr. Speaker, I would like to suggest that once or twice we have passed a bill providing for more than one year's compensation, and when the bill reached the Senate—I remember one instance in particular—the amount was cut down to one year's salary.

Mr. MANN. And in some of these cases there have been objections made to the bill, and it has not been considered at all.

Mr. BROWNING. Mr. Speaker, I want to say that under the New Jersey compensation law this man would get about \$2,100.

Mr. MANN. Yes; but he is not making the claim under the New Jersey law.

Mr. BROWNING. Of course not; he was serving in New York in the Government service.



Mr. AUSTIN. Mr. Speaker, in the Sixty-first Congress I entered my protest against Congress passing bills of a similar character. At that time, I think, a committee of this House reported a bill to pay a widow \$500 for the loss of her husband in the Government service. Now, I said then that it was a reflection upon our sense of justice to ask us to put that contemptible valuation upon a human life.

Mr. MILLER of Delaware. Will the gentleman yield?

Mr. AUSTIN. Yes.

Mr. MILLER of Delaware. As I said, it is a hard task to have to report these bills, but we have to live up to the policy of Congress in the past.

Mr. AUSTIN. I will never live up to a wrong policy adopted by a previous Congress. We ought in the consideration of these cases to let our high sense of honor and our conscience dictate our course and not the previous action or policy of any administration or any Congress. Put ourselves in the place of one of these unfortunates, the one whose case is now under consideration, with the loss of his leg, without fault on his part, in the discharge of his duty in the Government service. There is not a man on the floor of this House who would sit on a jury and bring in a verdict similar to the amount carried in this bill. If you did it, you would forfeit the respect of your friends and your neighbors.

Now, let us lay aside what somebody else has done, what some other Congress has enacted, what bill has been passed giving a year's compensation in payment of the life of a Government employee. This man is a cripple for life. I do not know whether he has a dependent mother or a wife and children.

Mr. BROWNING. He has a dependent mother.

Mr. AUSTIN. He has a dependent mother. Now, I do not believe there is an enlightened State in this Union which has a compensation law on the statute book fixing so small an amount for the loss of a limb. If a State of the Union can pass legislation which is just and fair, why can not a combination of 48 States, representing the richest Government on the face of this earth, measure up in these matters with the action of a small State in the Union, with a limited population and limited taxable resources and wealth. Let us administer justice here just as though we were on the bench in a court of justice.

Mr. WILSON of Florida. Does the gentleman make a distinction between whether there is a liability or not? He speaks of a jury's verdict. We sue in the courts because there is a liability incurred. This is not a liability. It is almost a gift.

Mr. AUSTIN. No; it is not a gift. How can you say in all fairness that it is a gift when a man in the discharge of his duties in the Government service, without any fault on his part, loses his limb?

Mr. McCracken. Is not it a fact that this country is considering whether or not it might go to war with another country because the rights of humanity are involved, and has not this man a right to his life and liberty from the time he entered the service of the United States Government on a Government transport, and do we not owe him a duty at this time?

Mr. AUSTIN. Of course, we owe him a duty, but it is no recompense to pay him \$720. It is an insult to our sense of justice to ask us to vote this sum.

Mr. GARLAND. Mr. Speaker, will the gentleman yield?

Mr. AUSTIN. Yes.

Mr. GARLAND. Just now we are on the point of taking over factories, and we will have a great many employees asked to go into the Government service. Whether that situation affects this or not, this is true, that we are now attempting to get men to join the Army and Navy. Is this kind of reward for an injury any incentive for a man to join?

Mr. AUSTIN. Oh, it is not justice; it is not fair; it is not right. You can not lay your hand upon your heart and remember your conscience and say such a settlement is just.

Mr. FARR. Mr. Speaker, will the gentleman yield?

Mr. AUSTIN. Yes.

Mr. FARR. It was stated a little while ago by some gentleman that this injured man would receive 66½ per cent of a year's salary if he were subject to the provisions of the McGillicuddy compensation measure enacted at the last session of Congress. He would receive 66½ per cent of his monthly wage continuously as long as he was disabled, under the McGillicuddy Act, and that is the law the provisions of which, in justice, should influence us to-night in this sad case.

Mr. ALMON. That would be retroactive.

Mr. FARR. I know that; but I think we ought to work under the more liberal and humane provisions of that law.

Mr. STAFFORD. Mr. Speaker, will the gentleman yield?

Mr. AUSTIN. Yes.

Mr. STAFFORD. Under the workmen's compensation act he would in case of partial disability receive a monthly com-

pensation equal to 66½ per cent of the difference between his monthly pay and his monthly wage-earning capacity at the beginning of such partial disability. Of course, in this case he is not totally disabled. He is totally disabled from performing the work that he performed prior to the injury, but there is no disguising the fact that a man with a cork leg can perform some work, such as that of watchman or guard; but that percentage would apply for life.

Mr. AUSTIN. Mr. Speaker, I want to say this: There is not a man in this House who would be willing to lose his leg and be paid a compensation of \$50,000 for it, and it is no excuse to say here that if we increase this amount the United States Senate will reduce it. I can take that record and defeat any Member of the United States Senate before the people, if that is his estimate and his idea of justice, and you can defeat any man in this House who will go before an enlightened constituency and take that position.

Mr. MILLER of Delaware. Mr. Speaker, will the gentleman yield?

Mr. AUSTIN. Yes.

Mr. MILLER of Delaware. I do not rise to disagree with my friend, but I want to ask him to permit us to vote upon this, because we have only an hour and a half left to go over the rest of the calendar, and I am sure the House has been influenced by his speech and is ready to vote.

Mr. AUSTIN. I am ready to vote.

Mr. BROWNING. Mr. Speaker, somebody spoke to-night saying that the United States Senate is not willing to allow this payment. I have in my hand a copy of the Washington Times of to-day, in which it says that the Senate to-day passed a bill providing for the payment of \$2,500 to one Jennings because of the amputation of his left arm, due to an accident while he was employed as a painter at the Washington Navy Yard.

Mr. MANN. Mr. Speaker, I remember a little incident which took place in this House in a former Congress, to which the gentleman from Tennessee [Mr. AUSTIN] referred a moment ago, and I think my recollection of it is a little more accurate than his. An omnibus bill was reported to the House carrying a number of cases for personal injuries. When the first item came up in the House some one moved to increase the amount to \$5,000. I think it was the gentleman from Tennessee [Mr. AUSTIN], although upon that matter his recollection would be better than mine. The House increased the amount to \$5,000, and then it increased the amount in each of the other cases to \$5,000. I remember the gentleman from Massachusetts [Mr. GILLET] had a bill on the calendar providing for the payment of six or seven hundred dollars to some one, and he started to ask to insert his item in the omnibus bill. I said to him, "You better not do that; you have a chance to get your bill enacted into law, while this bill has not the chance of a snowflake in hades," and it never was passed, and people who were provided with something in it have not gotten it, and that will be the case here.

Mr. HELGESEN. To the disgrace of the Government.

Mr. MANN. The gentleman says to the disgrace of the Government. When I came here nothing was paid on these accounts, and then we passed a law providing that people in certain hazardous occupations should receive an amount not exceeding one year's salary. You may say that was not enough, but certainly it is not fair to give to some one who does not come within the terms of that law more than we would give if he enjoyed the benefit of the law. It would not be fair to say that you could give to certain people engaged in hazardous occupations a year's salary under the law and say that people who did not come within that law can get a great deal more than those who do enjoy its benefit. That would not be fair. That is what the committee has taken as its standard. We have increased the amount since then by the McGillicuddy Act, and it may be that after a while we will go back and from the very beginning of the Government pay to everyone, or his or her heirs, an amount equal to that which we pay now to those who are injured while in the Government service. I doubt whether we ever will, and I am sure we will be asked to go back a great many years. After all, you have got to draw the line somewhere.

The SPEAKER pro tempore. The question is on the amendment to the amendment offered by the gentleman from New Jersey.

The question was taken, and the Speaker pro tempore announced that the yeas appeared to have it.

Mr. AUSTIN. A division, Mr. Speaker.

The House divided; and there were—ayes 20, noes 45.

So the amendment to the amendment was rejected.



Mr. AUSTIN. Mr. Speaker, I move to make it \$2,000—  
 Mr. TAYLOR of Colorado. Mr. Speaker, I want to say to my friend from Tennessee, as well as to other Members of the House, we all know there are a great many of these bills that are very meritorious. I represent one claim here where a man—a United States deputy marshal performing his duty—was killed by some Indians and left a widow and a small child without any means of support whatever. The committee has cut it to one year's salary, yet it will be a godsend for them if they can get that. There are a great many equally meritorious bills on this calendar. Now, if we are going to spend the evening in useless debate, if we are going to waste time in presenting amendments that will not and can not be adopted, practically filibustering, we will do a great injury to many deserving people; and it does seem to me, in view of the statement of the minority leader and in view of the statement of the committee, which has been fair, that we ought not delay the consideration of these bills at all. We have only had, as I recollect it, about one or two opportunities of this kind, before to-night, during the past 8 or 10 months, and now if some few gentlemen take up most of this evening trying to get a little raise to some two or three bills that probably ought to be raised; but if they can not do it, for Heaven's sake let our other friends go ahead, let us take what the committee will give us and get some of them through rather than filibuster or waste the whole night here and never get anything for anybody. This may possibly be the last time this calendar is called this session of Congress, and I appeal to the gentleman's sense of fairness to let us proceed.

Mr. AUSTIN. How did the gentleman vote on this proposition?

Mr. TAYLOR of Colorado. I voted against that amendment. Of course I did, because I thought it was the safe and proper thing to do, just as Mr. MANN, of Illinois, did. If the gentleman is going to try to load these bills down this way, he will kill all of them. They will have no more chance than a snowball in Mexico. I hope the gentleman will not take up the time of the House longer.

Mr. AUSTIN. Mr. Speaker, I deny the gentleman's statement that I am filibustering on this bill.

Mr. TAYLOR of Colorado. Well, sir—

Mr. AUSTIN. I think I have some rights as a Member of this House.

Mr. TAYLOR of Colorado. Somebody will make a point of no quorum if this proceeding keeps up much longer.

Mr. AUSTIN. I think I can come in here and offer an amendment and discuss it without being charged with an attempt at filibustering.

Mr. TAYLOR of Colorado. Well, you have already offered one amendment to this bill, and the House has voted that down.

Mr. AUSTIN. Yes; and you will have another.

Mr. TAYLOR of Colorado. Yes; and then somebody will make a point of no quorum, and where will the gentleman's bill go and where will all the other claims go? They will be killed by useless discussion and amendments.

Mr. AUSTIN. Mr. Speaker, I do not propose to be taken off my feet or withdraw my motion because the gentleman is anxious to reach one of his bills. I have got some bills on this calendar, too.

Mr. TAYLOR of Colorado. My bills are already passed over and can not be reached to-night, but there are many other gentlemen who have meritorious measures that they want to reach to-night if possible.

Mr. AUSTIN. They can speak for themselves.

Mr. TAYLOR of Colorado. I can say to the gentleman right now, we will get nowhere in about five minutes at this rate.

Mr. AUSTIN. The gentleman will get nowhere in endeavoring to run me off the floor of the House by charging filibustering. If there is any filibustering, the gentleman is in it.

Now, the attention of the House has been called to the fact that the Senate last night unanimously passed a bill voting \$2,500 for the loss of an arm of a Government employee. Does this House want to stand on record as fixing the estimate of \$700 for the loss of a limb?

I know these sums were insignificant in the Sixty-first Congress. You were attempting to fight them and appealing for justice to create a sentiment in Congress against that policy, and as a result that Congress did wake up and pass a general bill, the McGillicuddy bill, to increase the amount. The agitation of this question and the calling of attention to the injustice and unfairness of it will have its effect whether in this Congress or not. Justice will not down. It is not justice; it may be temporarily called justice, but the time will come when the sentiment of this country will demand an increased amount covering the loss of a life or limb.

Mr. MOORE of Pennsylvania. Mr. Speaker, I am in sympathy with the argument the gentleman makes, and I think the House generally is, but I would like to ask whether the remedy for this would not be to repeal the act of May 30, 1908, known as the workman's compensation act, which fixes the amount of compensation as a measure of damage to be paid in a case of this kind?

I ask the gentleman this because I am representing a colleague to-night who has a bill here for the relief of the foster mother of a man who was killed in the service, for which only \$480, or a year's compensation, is to be paid. Is the remedy not in repealing existing law, which fixed such miserable compensation?

Mr. AUSTIN. I think we will get an amendment of that law when we call public attention to this character of cases here in the House of Representatives.

Mr. BROWNING. We have an amendment to it now.

Mr. AUSTIN. In the very case the gentleman cites, under the Federal compensation law Congress has fixed \$400 as the valuation of a human life. Now, can you beat it?

Mr. SABATH. Will the gentleman yield for a question?

Mr. AUSTIN. Yes.

Mr. SABATH. Is it not a fact that by the House adopting the compensation bill in the last Congress it recognized the fact that formerly the compensation which we have allowed on claims was too small?

Mr. AUSTIN. Yes.

Mr. MANN. Is it not a fact that that law expressly provides it will only affect people injured after the act takes effect?

Mr. AUSTIN. The House did recognize the fact, I presume, that the pay we allowed at that time was too small.

Mr. MANN. If we wanted to provide for these cases, why did we not do it on the new basis?

Mr. AUSTIN. Yes; but we legislated last year. We are legislating on these cases now.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Tennessee.

The question was taken, and the Speaker announced that the yeas seemed to have it.

Mr. AUSTIN. Division, Mr. Speaker.

The House divided; and there were—ayes 30, yeas 43.

So the amendment was rejected.

The SPEAKER pro tempore. The question is on the committee amendment.

The committee amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read a third time, and passed.

JOHN SIMPSON.

The next business in order on the Private Calendar was the bill (S. 3743) to reimburse John Simpson.

The SPEAKER pro tempore. Is there objection to the consideration of the bill?

There was no objection.

The bill was read, as follows:

*Be it enacted, etc.,* That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay out of any moneys in the Treasury not otherwise appropriated, the sum of \$100 to John Simpson, of Pulaski County, Ky., to reimburse him for damages arising from the destruction of a creek ford due to backwater created by the construction of Lock and Dam No. 21 on the Cumberland River, and which payment is recommended to Congress by the Chief of Engineers, with a renewed recommendation therefor, in his annual report for the fiscal year ending June 30, 1915 (pp. 1085, 2837, and 2838), which is printed as House Document No. 91, Sixty-fourth Congress, first session.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

JAMES W. CROSS.

The next business in order on the Private Calendar was the bill (S. 4807) for the relief of James W. Cross.

The SPEAKER pro tempore. Is there objection to the consideration of the bill?

Mr. MANN. I object.

The SPEAKER pro tempore. The Clerk will report the next bill.

DUTIES ON FLAX-PREPARATORY MACHINES.

The next business in order on the Private Calendar was the bill (S. 4384) providing for the refund of duties collected on flax-preparatory machines, parts, and accessories imported subsequently to August 5, 1909, and prior to January 1, 1911.

The SPEAKER pro tempore. Is there objection to the consideration of the bill?

Mr. MANN. I object.



Mr. SABATH. Reserving the right to object—  
The SPEAKER pro tempore. Objection is heard, and the Clerk will report the next bill.

JAMES M. MOORE.

The next business in order on the Private Calendar was the bill (H. R. 11498) making an appropriation to compensate James M. Moore for damages sustained while in the service of the Government of the United States.

The SPEAKER pro tempore. Is there objection to the consideration of the bill? [After a pause.] The Chair hears none. The Clerk will report the bill.

The Clerk read as follows:

*Be it enacted, etc.,* That there be, and the same is hereby, appropriated the sum of \$5,000 in payment of James M. Moore, late of Company L, Twenty-eighth Regiment, United States Infantry, transferred from Company M, First United States Infantry, for injuries sustained while in the service of the Government in the Philippine Islands as a teamster in a runaway accident on May 20, 1907.

Also, the following committee amendment was read:

Line 4, after the word "of," strike out "\$5,000" and insert "\$840."

The SPEAKER pro tempore. The question is on agreeing to the committee amendment.

The amendment was agreed to.

Mr. MANN. Mr. Speaker, I move to strike out all after the word "Moore," in line 4, down to and including the word "Infantry," in line 7, reading as follows: "Late of Company L, Twenty-eighth Regiment United States Infantry, transferred from Company M, First United States Infantry." He was not in the Government service when the injury occurred.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Illinois [Mr. MANN].

The amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

HORACE G. KNOWLES.

The next business in order on the Private Calendar was the bill (H. R. 20185) for the relief of Horace G. Knowles.

The SPEAKER pro tempore. Is there objection to the consideration of the bill?

Mr. MANN. I object.

Mr. MILLER of Delaware. Will the gentleman withhold his objection for a moment?

Mr. MANN. Yes.

Mr. MILLER of Delaware. I would like to call the gentleman's attention to the fact that this man was minister to Nicaragua, and in waiting here, the same as Ambassador Fletcher has been waiting here on account of troubles in Mexico, he was allowed certain compensation by the Department of State, and could have gotten the amount claimed in this bill, but he did not send in his draft until after the amount had been covered back into the Treasury out of the appropriation; and the Department of State has no objection to the passage of this bill.

Mr. MANN. Well, the law allowed this man to be paid three months' salary. The department offered to pay him that amount, and he was very stubborn about it, and he told the department to "go to," and they went. Now he has gotten on his knees and wants us to pay it. He took his choice about it, and we are under no obligations to pay it.

Mr. MILLER of Delaware. I will say to the gentleman that he is not on his knees.

Mr. MANN. If he is not on his knees he ought not to have his money. [Laughter.]

Mr. MILLER of Delaware. While I do not believe in getting down on your knees to any Government department, even to Congress, I hope the gentleman will withdraw his objection.

Mr. MANN. I think I am obliged to object.

The SPEAKER pro tempore. Objection is heard. The Clerk will report the next bill.

ESTATE OF JOHN C. PHILLIPS, DECEASED.

The next business on the Private Calendar was the bill (H. R. 8573) for the relief of the estate of John C. Phillips, deceased.

The title of the bill was read.

The SPEAKER pro tempore. Is there objection?

Mr. SABATH. Reserving the right to object, Mr. Speaker—

Mr. STAFFORD. I ask that it be passed over.

Mr. BYRNES of South Carolina rose.

The SPEAKER pro tempore. For what purpose does the gentleman rise?

Mr. BYRNES of South Carolina. Is objection raised?

Mr. STAFFORD. I object.

Mr. BYRNES of South Carolina. Is the gentleman determined to object to it?

Mr. STAFFORD. I have examined it. I object.

The SPEAKER pro tempore. The gentleman from Wisconsin objects. The Clerk will report the next bill.

JANNA STOPPELS.

The next business on the Private Calendar was the bill (H. R. 19078) for the relief of Janna Stoppels.

The title of the bill was read.

The SPEAKER pro tempore. Is there objection?

Mr. SABATH. Reserving the right to object, Mr. Speaker, I would like to know something about this bill.

Mr. MILLER of Delaware. Mr. Speaker, inasmuch as I reported the bill from the committee, I will say to the gentleman from Illinois that it appropriates no money but enables a mother of a deceased soldier, a widow herself, to obtain what is due the beneficiary or soldier under the law, namely, six months' pay and whatever was coming to him at the time he died. It grows out of the recent Mexican trouble.

Mr. SABATH. I withdraw my objection, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the bill.

The Clerk read the bill, as follows:

*Be it enacted, etc.,* That Janna Stoppels, mother of William Stoppels, late of Company L, Thirty-second Regiment Michigan National Guard Infantry, shall be regarded as the duly designated beneficiary of the late William Stoppels under the act approved May 11, 1908, as amended by the act approved March 3, 1909.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The SPEAKER pro tempore. The Clerk will report the next bill.

CHARLES LEE BAKER.

The next business on the Private Calendar was the bill (S. 6154) for the relief of Charles Lee Baker.

The title of the bill was read.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. I object.

Mr. BOWERS. Mr. Speaker, will the gentleman from Illinois withhold his objection in order to permit me to make a statement?

Mr. MANN. Yes; I will.

Mr. BOWERS. Mr. Speaker, this bill is a meritorious one and should be passed.

Charles Lee Baker was born February 16, 1872. He was 26 years old when he entered the military service as a contract surgeon July 9, 1898. He has had 17 years of service as contract surgeon and member of the Medical Reserve Corps.

Military record: Contract surgeon, July 9, 1898, to May 31, 1899; September 1, 1900, to August 25, 1908. First lieutenant, Medical Reserve Corps, August 25, 1908, to present date.

Disability: Dr. Baker's disability is deafness incurred in the service in line of duty. He has been receiving the best medical treatment for several years, but without practical results which warrant his indulging the hope of being restored to a normal condition. Capt. R. H. Goldthwaite, of the Medical Corps, in his official report on Dr. Baker, says:

There is no prospect of any marked improvement in hearing, and under field conditions further inflammation of middle ear and further loss of hearing is to be expected.

As an indication of the degree of deafness in Dr. Baker's case, Capt. R. H. Goldthwaite, Medical Corps, United States Army, further states in his official report that the hearing is as follows:

Whispered voice, 1 foot for right ear and 3 feet for left ear (20 feet is normal).

Ticking of watch: Right ear not even heard on contact; left ear heard at 3 inches (3 feet is normal).

The official indorsement of the Surgeon General of the Army is as follows:

WAR DEPARTMENT,  
SURGEON GENERAL'S OFFICE,  
June 8, 1916.

TO THE ADJUTANT GENERAL OF THE ARMY:

1. Recommending favorable consideration.

2. Lieut. Baker is now sick at the Walter Reed General Hospital, Tokoma Park, D. C., with chronic otitis media incurred in the line of duty. He has had nearly 17 years of service as contract surgeon and member of the Medical Reserve Corps.

(Signed) W. C. GORGAS,  
Surgeon General United States Army.

The official indorsement of the Secretary of War is as follows:

JUNE 10, 1916.

The CHAIRMAN COMMITTEE ON MILITARY AFFAIRS,  
United States Senate:

Referring to S. 6154, Sixty-fourth Congress, first session, a bill for the relief of Dr. Charles Lee Baker, which is returned herewith, I have the honor to inform you that it appears from the records of the War Department that Dr. Baker was born February 16, 1872; that he served as a contract surgeon from July 9, 1898, to May 31, 1899, and from September 1, 1900, to August 25, 1908, and has served as a first lieutenant in the Medical Reserve Corps since August 13, 1908.



In view of the fact that Dr. Baker has served for more than 16 years in the Medical Department of the Army and has contracted a disability in the line of duty, I recommend that the bill in question be favorably considered.

Very respectfully,

(Signed) W. M. INGRAHAM,  
Assistant Secretary of War.

Dr. Baker's disability renders him unfit for further duty in the service or in civil life in the practice of his profession. This disability was incurred while serving in the Philippines and in the Hawaiian Islands—about one-half of this time having been spent in the foreign service. Provision is made by Congress for disabilities incurred in every other branch of the service. A surgeon in the Medical Corps would be no less efficient if he were transferred to the Medical Reserve Corps, and vice versa.

There is no doubt that the War Department expects and receives the same standard of service from its surgeons in either corps. It is only right and equitable that Dr. Baker's disability, incurred while serving 17 years as a surgeon, shall merit the same reward as if he had served in the Medical Corps instead of the Medical Reserve Corps. The difficulty in Dr. Baker's case is that there is no statute which permits retirement as a member of the Medical Reserve Corps. Dr. Baker has always been a first lieutenant in the Medical Reserve Corps, the lowest rank provided by law for medical officers. This bill authorizes the President to transfer him as a first lieutenant to the Medical Corps and then retire him.

In addition to that, this bill passed the Senate and was reported to this House. The Committee on Military Affairs, to which the bill was referred, unanimously reported the bill back with a recommendation that it be passed.

After 17 years' service it strikes me, and especially when the individual is incapacitated by reason of these disabilities, that it ought to be the pleasure of this House to pass this bill, and there should be no objection.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. I dislike to object to bills of this character. It is a hard case. But there are a great many hard cases where men in the Government service are injured. Personally I am not in favor of extending the retired list in the Army beyond what the law allows. In fact, if I had my own way about it, I would considerably restrict the retirement laws of the Army and the Navy. There is no one who would not like to get on that retired list. I would like it myself, but I never will. The mere fact that some one has served in the Government service for years is no reason for putting him on the retired list of the Army.

Mr. McKELLAR. Mr. Speaker, will the gentleman yield?

Mr. MANN. Not now. This man was a contract surgeon. He was not a Regular officer of the Army. If he had been a Regular officer of the Army, he would have been placed on the retired list. But the law does not put contract surgeons upon the retired list, and I do not see any reason why we should make an exception in favor of one man when we do not provide for the others.

Now I yield to the gentleman from Tennessee.

Mr. McKELLAR. I want to ask the gentleman if he does not draw this distinction, that this man was injured in line of service while serving in line of military duty. The Secretary of War, in making his report on it, asserts that such is the fact, and so does the Surgeon General, and it seems to me that under those circumstances a distinction exists that the gentleman has not drawn.

Mr. MANN. Lots of clerks working for the War Department not eligible to the retired list are injured or else by reason of age become incapacitated in the service, but we do not put them on the retired list. They would like to be put there, and it may be that they should be.

Mr. McKELLAR. But this man was performing the service of a medical officer in the Regular Army.

Mr. MANN. He was performing the service of a contract surgeon.

Mr. McKELLAR. Let us admit his service was probably the same as would have been performed by a Regular officer.

Mr. MANN. Yes; but he had the same rank and pay as a Regular officer.

Mr. KELLEY. Mr. Speaker, I would like to ask the gentleman if the same rule governs the Senate as governs this committee in the House?

Mr. MANN. No rules govern the Senate committee or the Senate in reference to matters when some Senator is personally interested.

Mr. McKELLAR. I want to say to the gentleman that this is a meritorious case. I am confident of it both from reading the report and from having seen the officer.

The SPEAKER pro tempore. Objection is heard. The Clerk will report the next bill.

WILLIAM O. SARBER.

The next business on the Private Calendar was the bill (H. R. 4359) to amend the military record of William O. Sarber.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection?

Mr. SABATH. Reserving the right to object, I should like to know something about this bill, either from the committee or from the gentleman who introduced it.

Mr. FIELDS. Mr. Chairman, the report shows that this soldier enlisted in 1862 for three months, and was honorably discharged. He again enlisted in March, 1865, and was charged with desertion July, 1865, after the war was over.

Mr. SABATH. How long was he in the service the second time?

Mr. FIELDS. From March, 1865, to July, 1865.

Mr. SABATH. The first time only three months?

Mr. FIELDS. The first time three months. He served out his first enlistment. On his second enlistment, after the war was over, a number of soldiers, 20, I believe, went away, as many others did, subsequently returning for their discharges.

It seems from the testimony that there was some difficulty between this soldier and his captain, and when the 20 men who had been away for some 20 days returned, the captain said to this man, "If you go to apply for your discharge I will have you arrested and court-martialed," and he was thereby intimidated and did not apply for his discharge, while it seems that the others who were with him went and applied for their discharges and received them.

Mr. SABATH. What are you aiming to do by this bill?

Mr. FIELDS. To hold that he was honorably discharged.

Mr. SABATH. I object—

Mr. GALLAGHER. I can tell the gentleman something about this bill. It was introduced by the gentleman from Illinois [Mr. McKENZIE].

Mr. SABATH. I object, but not on that ground.

The SPEAKER pro tempore. The gentleman from Illinois objects. The Clerk will report the next bill.

SYLVESTER HANNAN, ALIAS HENRY EDWARDS.

The next business on the Private Calendar was the bill (H. R. 9402) for the relief of Sylvester Hannan, alias Henry Edwards.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection?

There was no objection.

The bill was read, as follows:

*Be it enacted, etc.*, That in the administration of the pension laws, Sylvester Hannan, alias Henry Edwards, late of Company K, Twelfth Regiment New York Volunteer Cavalry, and Company D, Third Regiment Illinois Volunteer Cavalry, shall hereafter be held and considered to have been discharged honorably from the military service of the United States as a member of Company D, Third Regiment Illinois Volunteer Cavalry, on August 1, 1862.

With the following committee amendment:

Page 1, line 10, after the word "sixty-two," insert "Provided, That no pay, pension, bounty, or allowance shall be held to have accrued prior to the passage of this act."

The committee agreement was agreed to.

The bill as amended was ordered to be engrossed and read a third time, and was accordingly read the third time and passed.

JOHN W. CUPP.

The next business on the Private Calendar was the bill (S. 147) for the relief of John W. Cupp.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. I object.

The SPEAKER pro tempore. The gentleman from Illinois objects. The Clerk will report the next bill.

CHARLES LYNCH.

The next business on the Private Calendar was the bill (H. R. 14763) for the relief of Charles Lynch.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection?

Mr. STAFFORD. Reserving the right to object, I should like to know about this bill.

Mr. TILSON. This man enlisted to serve for three years, and served faithfully to within less than three months of the expiration of his term of service. The regiment had been sent home to be recruited up and was returning to the front. When on board a boat at New York preparatory to sailing this soldier was permitted by the company commander to go over the gangplank to get some tobacco. While away from the boat making his purchases the boat pulled out. He came back to the



dock in time to see the boat backing out into the channel. He waved his arms frantically, but the boat continued out to sea, and he was left on the dock.

Mr. FIELDS. The boat carrying all his baggage and everything?

Mr. TILSON. Yes; he left his baggage, equipment, and everything else, except the uniform he wore, on the boat. He was approached by an alleged friend, who said to him, "If you are caught with this uniform on, you will be arrested and all sorts of evil things will happen to you, but if you will come with me I will see you well out of it." So this man went away with his new-found friend to Boston. There, 12 days after he had been left in New York, he enlisted in a Massachusetts Cavalry regiment and went right away to the front again.

Mr. GALLAGHER. How much bounty did he get?

Mr. TILSON. That was the only question that came up which caused the committee to hesitate. We investigated and were unable to find that he got any bounty. He gave positive testimony that he received none. It appeared to the committee to be one of those cases where a bounty shark had exploited an ignorant soldier. We were unable to find evidence, however, that any bounty had been paid to anyone, though it is quite possible that it was paid to the alleged friend. The fact remains, however, that the soldier reenlisted, went to the front, and served until the 9th of August, 1865. You will note that he served the entire war through with the exception of 12 days. He got an honorable discharge for his last service, but on account of his first service being technically "not faithful," being marked as a deserter, he can not now receive a pension. He is now old and crippled and sorely needs a pension. We believe his long service entitles him to it.

Mr. SABATH. Any man who was left in New York was punished enough. [Laughter.] I shall not object.

Mr. MEEKER. Do I understand this man went ashore to get some tobacco?

Mr. TILSON. That is what he testifies, that he went ashore to get tobacco.

Mr. MEEKER. Should not that be held up as a warning to everybody against the horrible habit of using tobacco? [Laughter.]

The SPEAKER pro tempore. Is there objection?

There was no objection.

The bill was read, as follows:

*Be it enacted, etc.*, That in the administration of any laws conferring the rights, privileges, or benefits upon honorably discharged soldiers, Charles Lynch, who was a private in Company A, Ninth Connecticut Volunteer Infantry, shall hereafter be held and considered to have been discharged honorably from the military service of the United States as a member of said company and regiment on the 16th day of July, 1864.

With the following committee amendment:

Page 1, line 10, after the word "sixty-four," insert the following: "Provided, That no back pay or pension be allowed prior to the passage of this act."

The committee amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time.

Mr. MANN. I should like to ask a question. This bill provides—

That no back pay or pension be allowed prior to the passage of this act.

We passed a bill just ahead of this providing—

That no pay, pension, bounty, or allowance shall be held to have accrued prior to the passage of this act.

I understand that under these bills a man gets a pensionable status even if we provide that no pay, pension, bounty, or allowance shall accrue by reason of the passage of the act.

Mr. TILSON. The purpose of this bill is to give the man a pensionable status, but that amendment is put in in order to prevent any claims for back pay, bounty, or anything of that kind.

Mr. MANN. It does not have to say "back pay." Suppose you say "no pay or pension," does not the man get a pensionable status?

Mr. TILSON. He gets a pensionable status.

Mr. MANN. That is what I want to know.

Mr. TILSON. That is what this bill is for, to give him a pensionable status.

Mr. MANN. I notice that the Committee on Military Affairs report no two bills with that amendment in the same words. I do not see why they do not adopt a standard form.

The SPEAKER pro tempore. This bill has been ordered to be read a third time.

The bill was read the third time and passed.

WILLIAM H. KEYS.

The next business on the Private Calendar was the bill (H. R. 17411) for the relief of William H. Keys.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. Reserving the right to object, this is a bill to pay the funeral expenses of a former employee in the House. He was an employee in a former Congress and it appears that the heir is a nephew of the deceased. I notice that in the bill as reported they strike out six months' pay and appropriate to pay William H. Keys, sole dependent heir of Robert Keys, the deceased, an amount not to exceed \$250 to defray the funeral expenses. There is nothing in the record that shows that he is dependent. Did he pay the funeral expenses?

Mr. MILLER of Delaware. This is to pay the funeral expenses, which amounted to more than \$250. An itemized account was rendered to the committee and for the information of the gentleman I will say that this man, who was an employee around the House for a number of years, left an estate very much involved, and this man is the sole heir, or was at the time he died, and being a minor was a dependent heir.

Mr. MANN. Was he receiving his support from this House employee?

Mr. MILLER of Delaware. At the time the man died he was a minor and lived with Robert Keys. The committee fully investigated the accounts and it was found that it cost more than \$250 to bury this man.

Mr. MANN. I do not think we ought to say "an amount not exceeding \$250 to defray the funeral expenses." This man did not pay the expenses. I have no objection to paying \$250, that being the amount of the funeral expenses.

Mr. MILLER of Delaware. I have no objection to the gentleman from Illinois offering an amendment.

Mr. MANN. I have no objection.

The bill was read as follows:

*Be it enacted, etc.*, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to William H. Keys, sole dependent heir of Robert Keys, deceased, the sum of \$360, being an amount equal to six months' salary of the said Robert Keys as an employee in the Doorkeeper's department of the House of Representatives at the time of his death, and an additional amount not exceeding \$250 to defray the funeral expenses of the said Robert Keys.

With the following committee amendment:

Page 1, line 6, strike out the words "the sum of \$360, being an amount equal to six months' salary of the said Robert Keys as," and strike out, in line 10, the word "and," after the word "death," and the word "additional" before the word "amount."

The committee amendment was agreed to.

Mr. MANN. Mr. Speaker, I move to amend further by striking out, in line 10, the words "an amount not exceeding," and, in line 11, the word "defray" and insert, after the sum of "\$250," the words "an amount equal to," so that it will read "to pay \$250, an amount equal to the funeral expenses of the said Robert Keys."

The amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

FRANK PINKLEY.

The next business on the Private Calendar was the bill (H. R. 17692) for the relief of Frank Pinkley.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. I object.

STEPHEN J. HAFF.

The next business on the Private Calendar was the bill (H. R. 12317) for the relief of Stephen J. Haff.

The SPEAKER pro tempore. Is there objection?

Mr. SABATH. Reserving the right to object, I would like a little light on this bill.

Mr. MOORE of Pennsylvania. Can not we have the bill read?

The SPEAKER pro tempore. The Clerk will report the bill.

The Clerk read as follows:

*Be it enacted, etc.*, That in the administration of the pension laws the Secretary of the Interior be, and he is hereby, authorized to consider Stephen J. Haff, late of Company I, Ninetieth Regiment New York Volunteer Infantry, as having been honorably discharged as of September 8, 1864: *Provided*, That no pay, pension, or bounty shall accrue by reason hereof prior to the passage of this act.

The following committee amendment was read:

Line 5, strike out the letter "I" and insert "D."

The SPEAKER pro tempore. Is there objection?

Mr. SABATH. I reserve the right to object.

Mr. HICKS. Mr. Speaker, this soldier enlisted in 1861 and served three years with credit. At the end of his term of service he reenlisted as a veteran, and while he was home on a furlough he met an officer with whom he had had some trouble, and they had more trouble. He returned to headquarters and was given a pass to go to his regiment. He met this officer on the way, and they had some very bitter words. The result was that the officer struck the man in the face and he knocked the officer down and kicked him. The officer threatened him



with all sorts of things. The man got on the train with his pass and ticket, and while on the train the guard came and said, "If I were in your place I wouldn't go to Washington."

Mr. SABATH. Did this man serve in the Army?

Mr. HICKS. Yes; he served three years, and after that he enlisted and served again.

Mr. SABATH. I withdraw the objection.

The committee amendment was agreed to.

The bill as amended was ordered to be read a third time, was read the third time, and passed.

WILLIAM BLAIR.

The next business on the Private Calendar was the bill (H. R. 20161) for the relief of William Blair.

The SPEAKER pro tempore. Is there objection?

Mr. MILLER of Delaware. Mr. Speaker, a bill for the relief of William Blair passed the Senate, S. 6595, and is now on the Speaker's table. I understand that it makes an appropriation, whereas the House bill only refers the matter to the Court of Claims. I state that for the information of the House.

The SPEAKER pro tempore. Is there objection?

Mr. SABATH. What does the Senate bill call for? What is the appropriation?

Mr. MANN. I think it calls for \$18,000.

Mr. SABATH. Mr. Speaker, what is the request of the gentleman from Delaware?

Mr. MILLER of Delaware. Mr. Speaker, I was merely informing the House that we had a similar bill on the Speaker's table from the Senate, and I was about to ask unanimous consent to take it up and consider it at this time unless some one objected to it.

Mr. STEPHENS of Mississippi. Mr. Speaker, I will state to the gentleman from Illinois [Mr. SABATH] that Mr. Blair claims to have been damaged in the sum of \$33,236, and it is very evident that he was damaged in a considerable sum. Just how the Senate arrived at the conclusion that \$18,000 is the correct amount to pay I am not exactly certain, but my recollection is that the department authorized some one connected with the department to make an investigation, and my recollection further is that this person after making the investigation stated that he thought \$18,000 would cover the damages.

This damage arose through dipping some cattle that belonged to Mr. Blair, the dipping being done by a Government inspector. He prepared the dipping fluid in a bad way, and I think it was shown that he was perhaps drunk at the time. He made the fluid entirely too strong, and killed quite a number of cattle and injured several hundred head.

Mr. SABATH. What became of the inspector, the man who was guilty?

Mr. STEPHENS of Mississippi. My impression is that he left the country—skipped out. That is my recollection now. I rather think it will be proper to pay the damage of \$18,000.

Mr. SABATH. And what the gentleman is asking is to confer jurisdiction upon the Court of Claims?

Mr. STEPHENS of Mississippi. That is what our committee did.

Mr. MILLER of Delaware. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. MILLER of Delaware. Have we this bill before the House? If not, I desire to ask unanimous consent that the Senate bill be considered in lieu of the House bill that is now on the calendar.

Mr. SABATH. I object to the request of the gentleman.

Mr. MANN. Mr. Speaker, will my colleague withhold that for a moment? I think he might well be entitled to make the objection, and yet I think the Government will make money by passing the Senate bill.

Mr. SABATH. Mr. Speaker, I reserve the objection.

Mr. MANN. This is a case where the Government is clearly responsible. The man dipped a lot of cattle for ticks, and the dipping fluid was too strong with arsenic. Some young doctor had been employed through the civil-service regulations, and although he had been warned he made the mixture too strong. The result was that it killed a lot of cattle and took the hide off a lot of others. There is no question that the Government is responsible. The House bill proposes to refer the matter to the Court of Claims. The Senate bill, as I recall from reading the report, makes an appropriation of \$18,000, possibly eighteen thousand and some odd dollars. The inspector of the Government who made the estimate of the loss fixed the amount at \$18,293.30. There is no possibility that if there is a suit in the Court of Claims there will be any less amount found than the Government admits its liability for, and the probability is that there will be a considerably larger amount

allowed by the Court of Claims, the claimant claiming some \$40,000 or \$50,000.

Mr. SABATH. Will the gentleman inform me from whom he secures this information?

Mr. MANN. From the report itself. The gentleman will find the estimate of the inspector in charge on page 14 of the report on the House bill. There is no possibility that if we refer the matter to the Court of Claims there will be a judgment smaller in amount than the amount of the appropriation, and I think it wiser, though it is of course an unusual thing, to pass the Senate bill with the amount fixed, and give the man his money, than to send it to the Court of Claims and after a few years give him a good deal more money. It is probably better for him to get the money now, and it certainly is better for us to pay it now.

Mr. SABATH. In his original claim it shows that he made a claim for 77 steers at \$66, and the report of the inspector shows only 59 head.

Mr. MANN. That is a question of whether they were damaged or not.

Mr. SABATH. It shows that his original claim was not honest.

Mr. MANN. Oh, it was honest; but there is a difference of opinion. As I recall it—and I have not read this since it was reported—the inspector charged the man with an increase in value of \$7 a head, which is purely problematical.

Mr. STEPHENS of Mississippi. There were about twenty-five hundred head of cattle in this bunch, and there is a little discrepancy in the calculation.

Mr. SABATH. I mean as to those that were killed. The original claim was for 77 steers where the inspector found only 59. They allow for wintering, and so on, for 940 steers at \$7 per head, and for summering 937 steers at \$3 a head.

Mr. MANN. Mr. Speaker, the gentleman will find the complete statement of the claimant on page 18 of the report. After deducting \$4.80 per head, as he does, as a credit, he makes a claim in the end of \$33,274.85. His original claim was \$42,289.25. Undoubtedly we would save money by passing the Senate bill.

Mr. SABATH. Was there any evidence taken or given before the committee?

Mr. STEPHENS of Mississippi. There were quite a number of affidavits, letters, and statements made by parties. They are all mentioned in the report.

Mr. MANN. It is admitted by the Secretary of Agriculture and the Bureau of Animal Industry. The gentleman does not need any more than that.

Mr. SABATH. Mr. Speaker, I withdraw my objection.

Mr. MANN. Let the Senate bill be read first and see what it is. My recollection is from reading the record it is eighteen thousand and some odd dollars.

Mr. STEPHENS of Mississippi. Mr. Speaker, I ask unanimous consent that the Senate bill be read in lieu of the House bill.

The SPEAKER pro tempore. The gentleman from Mississippi asks unanimous consent that the House bill may be tabled and the Senate bill be taken up for action in the House. Is there objection?

Mr. MANN. Let the Senate bill be read.

The Clerk read as follows:

An act (S. 6595) to reimburse William Blair for losses and damages sustained by him by the negligent dipping of his cattle by the Bureau of Animal Industry, Department of Agriculture.

*Be it enacted, etc.,* That there be, and hereby is, appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$18,000, to reimburse William Blair, of Hominy, county of Osage, State of Oklahoma, for losses and damages sustained by him through the negligence of one of the veterinary inspectors employed by the Bureau of Animal Industry, Department of Agriculture, in dipping cattle belonging to said Blair, in Osage County, Okla., on or about the 27th, 28th, and 29th of August, 1915, said sum to be paid to said Blair in full for all losses and damages so sustained by him.

The SPEAKER pro tempore. Is there objection to the motion of the gentleman from Delaware? [After a pause.] The Chair hears none.

The bill was ordered to be read a third time, was read the third time, and passed.

The House bill (H. R. 20161) was ordered to be laid on the table.

WILLIAM I. WOOD.

The next business in order on the Private Calendar was the bill (H. R. 17305) for the relief of William I. Wood.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection? [After a pause.] The Chair hears none.



The Clerk read as follows:

*Be it enacted, etc.,* That the Postmaster General be, and he is hereby, authorized and directed to credit the accounts of William I. Wood, late postmaster at Corinna, Me., in the sum of \$106, due to the United States, being money-order funds lost in a fire which destroyed the Bangor, Me., post office April 30, 1911.

Mr. GUERNSEY. Mr. Speaker—

The SPEAKER pro tempore. Does the gentleman desire to object?

Mr. GUERNSEY. No.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

L. W. DRAGOO.

The next business in order on the Private Calendar was the bill (H. R. 4416) to reimburse William Drago, formerly postmaster at Smithfield, Wetzel County, W. Va., for money, money orders, and postage stamps stolen.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection?

Mr. SABATH. Mr. Speaker, reserving the right to object—

Mr. MANN. Mr. Speaker, I object.

ASBURY SCRIVENER.

The next business in order on the Private Calendar was the bill (H. R. 15999) to correct the military record of Asbury Scrivener.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection? [After a pause.] The Chair hears none.

The Clerk read as follows:

*Be it enacted, etc.,* That Asbury Scrivener shall hereafter be held and considered to have been honorably discharged from the military service of the United States as a private of Company F, Second Regiment District of Columbia Volunteer Infantry, on April 28, 1864.

The committee amendment was read, as follows:

Strike out all the matter just read after the enacting clause and insert in lieu thereof the following: "That in the administration of any laws conferring rights, privileges, and benefits upon honorably discharged soldiers Asbury Scrivener, who was a private in Company F, Second Regiment District of Columbia Volunteer Infantry, shall hereafter be held and considered to have been discharged honorably from the military service of the United States as a member of said company and regiment on the 7th day of August, 1864."

The amendment was agreed to.

The bill as amended was ordered to be engrossed and read the third time, was read the third time, and passed.

The title of the bill was amended to read: "A bill for the relief of Asbury Scrivener."

Mr. MILLER of Delaware. Mr. Speaker, I would ask unanimous consent for one minute in which to make a statement.

The SPEAKER pro tempore. Is there objection? [After a pause.] The Chair hears none.

Mr. MILLER of Delaware. Mr. Speaker, two days ago we passed the bill H. R. 11150, a bill for the relief of mail contractors. The bill is now on its way to the President for his action. There are 36 bills on this Private Calendar covered in that bill for the relief of mail contractors. I ask unanimous consent that those bills be stricken from the calendar and instead of reading the list I have I will send it to the Clerk's desk for the Clerk to read.

Mr. STAFFORD. Is the gentleman certain that the President will approve the bill?

Mr. MILLER of Delaware. I have no advance information on that, but it is our desire to clean up the calendar, and these bills are all included in that omnibus bill.

Mr. STAFFORD. I understand they are all included in that, but I thought perhaps the gentleman was a little bit previous in making that motion.

Mr. MILLER of Delaware. There is absolutely no objection to this. The individual Members who are interested in the bill, the gentleman from Mississippi and myself, have worked on this matter since the opening of Congress and we want to clear up the calendar.

Mr. MANN. I would like to have the memorandum sent up and read or have it put in the Record.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. I want it put in the Record.

Mr. MILLER of Delaware. I said that the bills are all contained in the memorandum which I have sent to the Clerk's desk.

Mr. MANN. But I want the memorandum inserted in the Record; I do not care whether it is read or not.

The SPEAKER pro tempore. That will be directed to be done.

The memorandum is as follows:

BILLS ON PRIVATE CALENDAR CONTAINED IN H. R. 11150, THE OMNIBUS BILL FOR THE RELIEF OF MAIL CONTRACTORS.

H. R. 9558, reported by Mr. MILLER of Delaware, No. 91.  
H. R. 9148, reported by Mr. MILLER of Delaware, No. 92.  
H. R. 10891, reported by Mr. MILLER of Delaware, No. 93.  
H. R. 11092, reported by Mr. MILLER of Delaware, No. 94.  
H. R. 9113, reported by Mr. STEPHENS of Mississippi, No. 95.  
H. R. 11400, reported by Mr. RUSSELL of Ohio, No. 99.  
H. R. 8622, reported by Mr. PRICE, No. 109.  
H. R. 12553, reported by Mr. MILLER of Delaware, No. 110.  
H. R. 12554, reported by Mr. MILLER of Delaware, No. 123.  
H. R. 10992, reported by Mr. MILLER of Delaware, No. 124.  
H. R. 11341, reported by Mr. MILLER of Delaware, No. 125.  
H. R. 9783, reported by Mr. POU, No. 134.  
H. R. 9175, reported by Mr. POU, No. 135.  
H. R. 9416, reported by Mr. STEPHENS of Mississippi, No. 136.  
H. R. 9455, reported by Mr. STEPHENS of Mississippi, No. 137.  
H. R. 13100, reported by Mr. STEPHENS of Mississippi, No. 138.  
H. R. 9463, reported by Mr. STEPHENS of Mississippi, No. 139.  
H. R. 3835, reported by Mr. STEPHENS of Mississippi, No. 140.  
H. R. 10054, reported by Mr. STEPHENS of Mississippi, No. 142.  
H. R. 6225, reported by Mr. RUSSELL of Ohio, No. 145.  
H. R. 11696, reported by Mr. MILLER of Delaware, No. 147.  
H. R. 1442, reported by Mr. POU, No. 154.  
H. R. 6009, reported by Mr. STEPHENS of Mississippi, No. 155.  
H. R. 6010, reported by Mr. STEPHENS of Mississippi, No. 156.  
H. R. 6011, reported by Mr. STEPHENS of Mississippi, No. 157.  
H. R. 6012, reported by Mr. STEPHENS of Mississippi, No. 158.  
H. R. 6013, reported by Mr. STEPHENS of Mississippi, No. 159.  
H. R. 6014, reported by Mr. STEPHENS of Mississippi, No. 160.  
H. R. 6015, reported by Mr. STEPHENS of Mississippi, No. 161.  
H. R. 6016, reported by Mr. STEPHENS of Mississippi, No. 162.  
H. R. 13308, reported by Mr. MILLER of Delaware, No. 170.  
H. R. 8265, reported by Mr. MILLER of Delaware, No. 171.  
H. R. 12798, reported by Mr. POU, No. 180.  
H. R. 5501, reported by Mr. POU, No. 181.  
H. R. 5502, reported by Mr. POU, No. 182.  
H. R. 9181, reported by Mr. POU, No. 184.

MARTIN V. PARMER.

The next business in order on the Private Calendar was the bill (S. 2880) for the relief of Martin V. Parmer.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection?

Mr. SABATH. Mr. Speaker, reserving the right to object, I would like to be informed as to what this bill calls for.

Mr. FIELDS. Mr. Speaker, this soldier enlisted on the 1st day of December, 1861, and served until he was wounded in the Battle of Chickamauga, 1863. The records of the War Department show that he was in three or four different hospitals from that time on, and reenlisted August 4, 1864. The proof then shows that because of his disability from his wounds received in the right forearm that he was transferred to the reserves, being unable to perform military duty. While in that condition he received word that some band of marauders were disturbing the country around his home in Nebraska, I believe, and he asked for permission to go home to protect his family, as he was not able to render military service at the time.

He did not get it immediately, but he did go home for the protection of his family. In view of his two and one-half years of service, and the fact that he was wounded in the service, and was in some three or four different hospitals, the committee thought it a proper case.

Mr. SABATH. I think it is a meritorious case, and I withdraw my objection.

The SPEAKER pro tempore. The Clerk will report the bill.

The Clerk read as follows:

*Be it enacted, etc.,* That in the administration of any laws conferring rights, privileges, or benefits upon honorably discharged soldiers, Martin V. Parmer, late of One hundred and thirty-eighth Company, Second Battalion Veteran Reserve Corps, shall hereafter be held and considered to have been discharged honorably from the military service of the United States as a member of said company on the 4th day of August, 1864. *Provided,* That no pension shall accrue prior to the passage of this act.

The bill was ordered to be read a third time, was read the third time, and passed.

PETER KENNEY.

The next business in order on the Private Calendar was the bill (S. 1553) for the relief of Peter Kenney.

The SPEAKER pro tempore. Is there objection to the consideration of the bill?

Mr. SABATH. Mr. Speaker, I would like to have some information on this bill.

Mr. FIELDS. Mr. Speaker, this soldier served from August 19, 1861, to October 12, 1863, when he was wounded in the Battle of Gettysburg. He was in the hospital for a long while, and when he was able to leave the hospital he was given a furlough. He went home during his furlough, and cut his foot with an ax, as the testimony shows, and was not able to return to his command until after his regiment was mustered out.

Mr. SABATH. He served about two years and a half?



Mr. FIELDS. Yes, sir. And was wounded in the Battle of Gettysburg.

The SPEAKER pro tempore. The Clerk will report the bill.

The Clerk read as follows:

*Be it enacted, etc.,* That in the administration of any laws conferring rights, privileges, or benefits upon honorably discharged soldiers, Peter Kenney, late of Company G, Fifth Regiment Michigan Volunteer Infantry, shall hereafter be held and considered to have been discharged honorably from the military service of the United States as a member of said company and regiment on the 5th day of February, 1864: *Provided*, That no pension shall accrue prior to the passage of this act.

The SPEAKER pro tempore. The question is on the third reading of the bill.

The bill was ordered to be read a third time, was read the third time, and passed.

GARDINER L. EASTMAN.

The next business in order on the Private Calendar was the bill S. 5203, for the relief of Gardiner L. Eastman.

The SPEAKER pro tempore. Is there objection to the consideration of the bill? [After a pause.] The Chair hears none, and the Clerk will report the bill.

The Clerk read as follows:

*Be it enacted, etc.,* That in the administration of any laws conferring rights, privileges, and benefits upon honorably discharged soldiers, Gardiner L. Eastman, who was a private of Company H, Thirtieth Regiment Maine Volunteer Infantry, shall hereafter be held and considered to have been discharged honorably from the military service of the United States as a member of said company and regiment on or about the 16th day of June, 1865: *Provided*, That no pay, pension, bounty, nor other emolument shall accrue prior to the passage of this act.

The SPEAKER pro tempore. The question is on the third reading of the bill.

The bill was ordered to be read a third time, was read the third time, and passed.

HEIRS OF ANTOINE BAYARD.

The next business in order on the Private Calendar was the bill S. 2222, for the relief of the heirs of Antoine Bayard.

The SPEAKER pro tempore. Is there objection? [After a pause.] The Chair hears none, and the Clerk will report the bill.

The Clerk read as follows:

*Be it enacted, etc.,* That the Secretary of the Interior be, and he is hereby, authorized and directed to issue to the heirs of Antoine Bayard, late member of the Mississippi Militia, during the War of 1812, a duplicate bounty land warrant for 120 acres, in lieu of warrant No. 34205, heretofore issued under the act of March 3, 1855, which has heretofore been lost and has never been used.

The SPEAKER pro tempore. The question is on the third reading of the bill.

The bill was ordered to be read a third time, was read the third time, and passed.

REUBEN SEWELL.

The next business in order on the Private Calendar was the bill (H. R. 1869) correcting the military record of Reuben Sewell.

The SPEAKER pro tempore. Is there objection?

Mr. SABATH. Reserving the right to object, I would like to know from the chairman something about this bill.

Mr. McCracken. Mr. Speaker, I would like to say for the gentleman's information this bill refers to one Reuben Sewell, who enlisted September 1, 1861. He served three months and then reenlisted for further service, and served throughout the entire Civil War. After the Civil War he enlisted again for military service in the West, fighting Indians. There is some discrepancy as between this man's record and his military record, which shows that possibly he did not report for duty for a period of a couple of months. He says he went from Washington City to visit his folks in Philadelphia, and that he was not away from his service; that he performed his service entirely throughout the entire Civil War, and he is only asking for what he feels he is entitled to.

Mr. SABATH. Was he charged with desertion?

Mr. McCracken. So far as the records of the department are concerned down here—they infer there is a desertion, although it is not absolute.

Mr. CRAGO. The records of Pennsylvania show that he served two enlistments.

Mr. McCracken. He served two enlistments.

Mr. SABATH. It is only a question as to two months?

Mr. McCracken. That is all.

The SPEAKER pro tempore. Is there objection? [After a pause.] The Chair hears none. The Clerk will report the bill.

Mr. MANN. Report the committee amendment.

The bill as amended was read, as follows:

*Be it enacted, etc.,* That in the administration of the pension laws Reuben Sewell, who was a private of Company G, Twenty-third Regiment Pennsylvania Volunteer Infantry, and transferred to Company E

of that regiment, shall hereafter be held and considered to have been discharged honorably from the military service of the United States as a member of the last-named company on the 25th day of July, 1864.

The SPEAKER pro tempore. The question is on agreeing to the committee amendment.

The amendment was agreed to.

Mr. TILSON. Mr. Speaker, I move to amend at the end of the bill, after the word "sixty-four," in line 4, page 2, by inserting "Provided, That no pension or allowance shall accrue prior to the passage of this act."

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Connecticut [Mr. TILSON].

Mr. STAFFORD. Let the amendment be reported.

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

After the word "sixty-four," on page 2, line 4, insert: "Provided, that no pay, pension, bounty, allowance, or other emolument shall accrue prior to the passage of this act."

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Connecticut [Mr. TILSON].

The amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read a third time and passed.

The title was amended to read as follows: "A bill for the relief of Reuben Sewell."

ALLEN HYATT.

The next business on the Private Calendar was the bill (H. R. 15852) for the relief of Allen Hyatt.

The title of the bill was read.

The SPEAKER pro tempore. Is there objection?

There was no objection.

The SPEAKER pro tempore. The Clerk will report the bill.

The Clerk read the bill, as follows:

*Be it enacted, etc.,* That in the administration of any laws conferring rights, privileges, and benefits upon honorably discharged soldiers Allen Hyatt, who was a private in Company H, Eighty-fifth Regiment Pennsylvania Volunteer Infantry, shall hereafter be held and considered to have been discharged honorably from the military service of the United States on the 23d day of June, 1863: *Provided*, That no bounty, pay, pension, or other emolument shall accrue prior to the passage of this act.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The SPEAKER pro tempore. The Clerk will report the next bill.

AQUILA NEBEKER.

The next business on the Private Calendar was the bill (S. 5632) for the relief of Aquila Nebeker.

The title of the bill was read.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. Reserving the right to object, Mr. Speaker, I do not know whether anybody is looking after the bill or not. I see the report on the bill states that "this bill is substantially the same as the bill H. R. 14836, which was favorably reported by the House Committee on Public Lands at the last session of Congress, but which was not passed because of the congestion of legislation in the House at that time." Was that bill reported at the last session?

Mr. MAYS. That is what the report says.

Mr. MANN. I know; but is that correct?

Mr. MAYS. I do not remember that it was, but it passed the Senate.

Mr. MANN. Gentlemen making reports of that kind ought to be careful. That is the principal reason given for the reporting of this bill. It says that a similar bill was reported at the last session of Congress, and that the House bill was not passed because of the congestion of business. The fact seems to be that no such bill was reported at all.

Mr. MAYS. It passed the Senate.

Mr. MANN. But the House bill was not passed.

Mr. MAYS. The Senate bill was similar to this one.

The SPEAKER pro tempore. Is there objection?

There was no objection.

The SPEAKER pro tempore. The Clerk will report the bill.

The Clerk read the bill, as follows:

*Be it enacted, etc.,* That the Secretary of the Interior is hereby authorized, in his discretion, to accept title to the following-described lands, either in whole or in part, upon certification by the Secretary of Agriculture that the lands are chiefly valuable for national forest purposes and approximately equal in value to the lands to be given in exchange therefor: The south half of the southeast quarter of section 3; the northeast quarter of the northeast quarter and the south half of the southwest quarter of section 10; the north half of the northeast quarter of section 15, all in township 12 north, range 4 east; the south half of the northwest quarter and the northwest quarter of the southwest



quarter of section 14, township 13 north, range 4 east; lots 1, 2, 3, and 4 and the south half of the northwest quarter and all of the southwest quarter of section 4; all of section 9; and the north half of section 16; all in township 14 north, range 4 east of Salt Lake base and meridian, situate in the Cache National Forest; and to issue to Aquila Nebeker in lieu thereof patents to the following-described areas, or such parts thereof as are approximately equal in value to the lands conveyed: The south half of the northeast quarter and all of the southeast quarter of section 11; the southwest quarter of section 12; all of section 13; the northwest quarter of the northeast quarter, the southeast quarter of the northeast quarter, and all of the southeast quarter of section 14; the northeast quarter of section 23; and the north half of section 24; all in township 13 north, range 4 east of Salt Lake base and meridian: *Provided*, That the lands conveyed to the Government shall thereupon become parts of the Cache National Forest and subject to all laws and regulations applicable thereto.

With committee amendments, as follows:

Amend. page 2, by inserting after the word "are," on line 11, the words "found by the Secretary of Agriculture to be," and on page 2, line 24, after the word "thereto," by inserting a colon and adding the following: "Provided further, That the Secretary of the Interior and the Secretary of Agriculture shall jointly report to Congress, in detail, the factors upon which the valuations were made."

The SPEAKER pro tempore. The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

The SPEAKER pro tempore. The question is on the third reading of the Senate bill as amended.

The Senate bill as amended was ordered to be read a third time, was read the third time, and passed.

ELIZABETH DAVIS.

Mr. STEPHENS of Mississippi. Mr. Speaker, I ask unanimous consent to return to Calendar No. 352, an act for the relief of Elizabeth Davis.

ASBURY SCRIVENER.

Mr. MANN. Well, Mr. Speaker, I ask unanimous consent that we may vacate the order by which we passed the bill H. R. 15999, which was a bill to give a pensionable status to Asbury Scrivener, and that we add as an amendment to the bill the provision that "no bounty, pay, pension, or other emolument shall accrue prior to the passage of the bill."

Mr. FIELDS. Yes; I was intending to do that.

Mr. MANN. And that the bill be passed with that amendment.

The SPEAKER pro tempore. Without objection, the request will be acted upon. Is there objection?

There was no objection.

ELIZABETH DAVIS.

The SPEAKER pro tempore. Will the gentleman from Mississippi again give the number of that bill?

Mr. STEPHENS of Mississippi. It is Calendar No. 352 (S. 3617), an act for the relief of Elizabeth Davis.

Mr. MANN. Whose bill was that?

Mr. STEPHENS of Mississippi. That of the gentleman from Idaho [Mr. SMITH].

Mr. MANN. I think there was an agreement to return to it.

Mr. STEPHENS of Mississippi. Yes; I believe so.

The SPEAKER pro tempore. The gentleman from Mississippi [Mr. STEPHENS] asks unanimous consent to return to Calendar No. 352, Senate bill No. 3617, an act for the relief of Elizabeth Davis. Is there objection?

Mr. STAFFORD. Reserving the right to object, Mr. Speaker, I stated at the beginning of this session that I do not believe we had the right to play favorites. There was no agreement whatsoever. I do not think it is a good policy to inaugurate, to call up bills out of their order and pass them. It is a discrimination against other bills.

Mr. SMITH of Idaho. There was a distinct understanding—

Mr. STAFFORD. The gentleman says there was a distinct understanding. The RECORD will show that I said at the beginning of this session that I did not believe in playing favorites. I stated that expressly.

The SPEAKER pro tempore. The gentleman from Wisconsin objects. The Clerk will read the next bill.

CLAIMS UNDER BOWMAN AND TUCKER ACTS.

The next business on the Private Calendar was the bill (S. 1878) making appropriation for payment of certain claims in accordance with findings of the Court of Claims, reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and the Tucker Acts, and under the provisions of section 151 of the act approved March 3, 1911, commonly known as the Judicial Code.

The Clerk read the title of the bill:

The bill is as follows:

*Be it enacted, etc.*, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated:

To Anastacio de Baca, administrator of Francisco de Baca, deceased, of Santa Ana County, \$1,325.

To Edward H. Bergmann, of New Mexico, \$1,200.

To W. J. Goodwin, of New Mexico, formerly of Woodruff County, Ark., \$2,980.

To Prairie County, Ark., \$13,200.

With the following committee amendments:

On page 1, in line 5, after the word "appropriated," insert the following:

"To claimants in this act named the several sums appropriated herein, the same being in full for and the receipt of the same to be taken and accepted in each case as a full and final release and discharge of their respective claims, except that claimants under this act receiving compensation for use and occupancy of property shall not be barred from further prosecutions of claims arising from damage or destruction of the same property, namely: "

On page 1, strike out lines 6 and 7.

On page 2, strike out line 3.

At the end of the bill insert the following:

"ALABAMA.

"To the legal representatives of Isaiah Attaway, deceased, of Macon County, \$275.

"To Jane F. Paulk, of Bullock County, \$635.

"To the trustees of the Cumberland Presbyterian Church of Pleasant Springs, \$350.

"GEORGIA.

"To the trustees of the First Baptist Church of Rome, \$870.

"KENTUCKY.

"To R. W. Harris, administrator of James P. Harris, of Floyd County, \$330.

"To the vestry of Ascension Protestant Episcopal Church, of Mount Sterling, \$825.

"To the fiscal court of Oldham County, \$1,100.

"To the treasurer of the Christian Church of Stanford, \$420.

"LOUISIANA.

"To Madeleine Lement, administratrix of Pierre Lement, of St. Landry Parish, \$295.

"To Kate P. McWaters, Margaret McWaters Bell, James H. McWaters, B. P. McWaters, and Moses McWaters, Jr., in equal shares, heirs of Moses McWaters, of West Feliciana Parish, \$950.

"MARYLAND.

"To the heirs of William H. Bradshaw, of Frederick County, \$137.50.

"MISSISSIPPI.

"To the trustees of the Protestant Orphan Asylum at Natchez, \$3,500.

"MISSOURI.

"To William W. Green, of Camden County, \$270.

"NEW YORK.

"To the legal representatives of Samuel Schiffer, deceased, of New York, \$4,700.95.

"NORTH CAROLINA.

"To Sarah F. Trenwith, executrix of C. F. Simpson, deceased, of Craven County, \$815.

"To the deacons of the Baptist Church of Beaufort, \$250.

"OHIO.

"To the trustees of the African Methodist Episcopal Church of Gallipolis, \$250.

"SOUTH CAROLINA.

"To John Duncan, surviving partner of the firm of Duncan & Son, of Charleston, \$8,450.

"To the trustees of Beaverdam Baptist Church, of Marlboro County, \$1,600.

"To the trustees of St. John's Baptist Church, of Bamberg County, \$275.

"TENNESSEE.

"To Lulu H. Doyle and Anna V. Berry, sole heirs of Patrick H. and Margaret E. Watkins, deceased, of Hamilton County, \$333.34.

"To the trustees of the Hobson Methodist Church, of Davidson County, \$1,800.

"To the treasurer of the corporation of the Cumberland Presbyterian Church, of Chattanooga, \$500.

"To the trustees of the Christian Church of Columbia, \$375.

"To the trustees of the Cumberland Presbyterian Church, of Murfreesboro, \$900.

"To the trustees of the McKendree Methodist Episcopal Church South, of Nashville, \$1,200.

"To the trustees of Liberty Springs Missionary Baptist Church, of Stewart County, \$475.

"VIRGINIA.

"To Lucy E. Johnson and John A. Johnson, sole heirs of Armistead M. Johnson, deceased, of Loudoun County, \$784.

"To the session of the Presbyterian Church of Greenwood, \$100.

"To the trustees of the Christian Church of Suffolk, \$540.

"WEST VIRGINIA.

"To the legal representatives of Josiah M. Davisson, deceased, of Taylor County, \$720.

"To the trustees of Christ Protestant Episcopal Church, of Bunker Hill, \$300.

"SEC. 2. That the foregoing several sums be, and they are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the purposes of this act.

"SEC. 3. That in case of the death of any claimant, or the death or discharge of the executor or administrator of any claimant herein named, payment of such claim shall be made to the legal representatives: *Provided*, That where a claimant is dead the administrator, executor, or legal representative shall file a certified copy of his bond, which bond must be at least equal in amount to the sum hereby appropriated: *Provided further*, That in all cases where the original claimants were adjudicated bankrupts payment shall be made to the legal representa-



tives or next of kin instead of to the assignees in bankruptcy: And provided further, That wherever under this act it is provided that a payment be made to an executor or an administrator, whether original or ancillary or de bonis non, and such executor or administrator is dead or no longer holds his office, payment shall be made to the successor therein, his title to hold such office being established to the satisfaction of the Secretary of the Treasury; and wherever under this act it is provided that a payment be made to a corporation or quasi corporation and such corporation or quasi corporation has been merged in or consolidated with another corporation or quasi corporation, payment shall be made to the corporation or quasi corporation with which the consolidation or merger has been made."

The SPEAKER pro tempore. Is there objection?

Mr. MANN. Reserving the right to object, the amendment of the House contains this provision on page 2:

Except that claimants under this act receiving compensation for use and occupancy of property shall not be barred from further prosecution of claims arising from damage or destruction of the same property.

Mr. BYRNES of South Carolina. I can tell the gentleman the reasons for the insertion of that provision.

Mr. MANN. I do not want to know the reasons for it. I know the reasons against it. I am not willing to let the bill pass by unanimous consent with that provision in it. We do not allow for the damage or destruction of property anywhere.

Mr. BYRNES of South Carolina. If the gentleman will allow me, I have no objection at all to that provision being stricken out. It was inserted because it was contained in the last omnibus bill, and it was passed solely on the theory that although we do not pay for destruction of property, and this bill includes no items for destruction of property, we thought it was doubtful whether we should foreclose the right of anyone hereafter. But I have no objection, and if the motion is made to strike out that provision, I will vote to strike it out.

Mr. MANN. Then I suggest to the gentleman—I do not know whether anybody else is going to object or not—that it will not be possible in the remaining time to consider all these amendments, and the only way to do is to ask unanimous consent to pass the bill with the House amendments, with the provision to which I have referred stricken out. I do not know whether anybody will object to that, but we can not consider all these items to-night, and the only thing we can do is just to take the judgment of the committee. As far as I am concerned, I am willing to do that.

Mr. BYRNES of South Carolina. I will say to the gentleman that the committee have included in this bill only such items as had the unanimous consent of the entire membership of the committee. All other items, though some of them doubtless are meritorious, have been left out to be considered at some later date. No contested item is included in this bill.

Mr. MANN. I think the committee have been very careful. The only way it can be passed is by asking unanimous consent—

Mr. BYRNES of South Carolina. I ask unanimous consent that on page 2 the bill be amended by striking out—

Mr. MANN. Let me make a suggestion, that the gentleman ask unanimous consent that the amendments of the committee be agreed to, amending the first amendment by striking out the language on page 2—

Except that claimants under this act receiving compensation for use and occupancy of property shall not be barred from further prosecution of claims arising from damage or destruction of the same property—

And that then the bill be considered as read a third time and passed. I do not know whether you can do that, but that is the only way in which it can be done.

Mr. BYRNES of South Carolina. I ask unanimous consent that the committee amendments be agreed to, the amendment on page 2 being amended by striking out all after the word "claims," in line 5, down to and including the word "property," in line 8, and that the bill be considered as read a third time and passed.

The SPEAKER pro tempore. The gentleman from South Carolina asks unanimous consent—

Mr. SABATH. Reserving the right to object, I would like to know what these claims are about.

Mr. BYRNES of South Carolina. I can tell the gentleman. They are for the use and occupation of property, rental, in other words; or, in the case of a few individual claims, for stores and supplies taken from loyal citizens of the United States. No claim for destruction is included nor is there any claim in which any laches or failure to prosecute the claim was found by the courts.

Now, is there any claim for a disloyal purpose? The committee has been exceedingly careful in excluding those.

Mr. SABATH. When was this property taken?

Mr. BYRNES of South Carolina. During the Civil War.

Mr. SABATH. Why have not they made an effort heretofore to have the claims allowed?

Mr. BYRNES of South Carolina. They have been allowed by the Court of Claims, as the gentleman knows, and he must mean why they have not been paid heretofore. In the case of churches or lodges under the law the Southern Claims Commission, which was the only tribunal that had power to construe the law, held that they were not allowed to consider the claims of corporations. So they had no opportunity to present their claims to that tribunal. It was the only tribunal then until we passed the law giving the Court of Claims the right to hear the claims and report to the House.

Mr. SABATH. They were precluded from filing their claims, and it is only since the recent act that they have a right to present them?

Mr. BYRNES of South Carolina. Yes; and to be frank with the gentleman, we have particularly investigated them, and the gentleman from Nebraska [Mr. REAVIS] particularly objected to the consideration of any claim where it was found that the claimant was guilty of laches, and in every one of the cases the claimant had to show that he had been diligent in presenting his claim to some officer of the Government or some tribunal.

Mr. SABATH. How much do the claims amount to?

Mr. BYRNES of South Carolina. Thirty-eight thousand three hundred and five dollars.

Mr. SABATH. How many claimants are there?

Mr. BYRNES of South Carolina. Thirty-four.

Mr. SABATH. So that the claims would average about a thousand dollars each?

Mr. BYRNES of South Carolina. Yes. Of course they vary in amount, but they would average that.

Mr. SABATH. And the committee has carefully considered the claims?

Mr. BYRNES of South Carolina. The committee has considered these claims more carefully than any bills that I know of.

Mr. SABATH. I have every confidence in the gentleman when he states that the bill ought to pass, and I withdraw my objection.

Mr. MOORE of Pennsylvania. Reserving the right to object, I would like to ask the gentleman from South Carolina what is the approximate total amount of these claims that are presented?

Mr. BYRNES of South Carolina. Thirty-eight thousand dollars.

Mr. MOORE of Pennsylvania. This bill does not include what is ordinarily known as cotton claims?

Mr. BYRNES of South Carolina. No; there are no claims for destruction of property. It is for stores and supplies and use and occupation. I know what the gentleman refers to—like those bills in the last session. There are no such bills here.

Mr. MOORE of Pennsylvania. I am asking, because it was said that some gentleman on the floor would offer a cotton claim. I assume that it would not be proper on this bill?

Mr. BYRNES of South Carolina. No.

Mr. MOORE of Pennsylvania. This is not a cotton-claim bill?

Mr. BYRNES of South Carolina. No; it is for stores and supplies and use and occupation.

Mr. REAVIS. Mr. Chairman, I would say to the House that in the consideration of these numerous claims the minority of the committee took the position that any claimant who had been guilty of laches should not have his claim reported, at least not at this session of Congress.

Another question that came before the committee was the question of loyalty. That question is jurisdictional in the legislation.

There have been various tribunals organized for the purpose of investigating these claims, such as the Southern Claims Commission, the Quartermaster's Department, and so forth, and wherever any claim had been submitted to any tribunal competent to pass upon the same, and they found disloyalty against the claimant, these claims were eliminated. So there is in the bill no claim of anyone against whom a finding of disloyalty has ever been made. The last war-claims bill carried claims to the extent of \$1,166,000. This bill carries claims aggregating \$38,000. Every doubtful claim concerning which there was any question in the minds of any member of the committee has been eliminated from the bill. There are no cotton claims here, and I will say that if there is any attempt to put any claim of that character in this bill I shall not only object but make the point of no quorum.

The SPEAKER pro tempore. The gentleman from South Carolina asks unanimous consent that the bill shall be considered as taken up and read a third time and passed, including the committee amendment and the amendment offered on the floor of the House, as indicated by him. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.



## NAVAJO TIMBER CO., DELAWARE.

The next business on the Private Calendar was the bill (S. 3934) to reimburse the Navajo Timber Co., of Delaware, for a deposit made to cover the purchase of timber.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. I object.

## STEAMSHIP "REPUBLIC."

The next business on the Private Calendar was the bill (S. 5985) authorizing the Commissioner of Navigation to cause the steamship *Republic* to be enrolled and licensed as a vessel of the United States.

The SPEAKER pro tempore. Is there objection?

There was no objection.

The SPEAKER pro tempore. The Clerk will report the bill.

The Clerk read as follows:

*Be it enacted, etc.,* That the Commissioner of Navigation is hereby authorized and directed to cause the steamship *Walkure*, admitted to American registry as the steamship *Republic*, which was sunk in the harbor of Papeete, Tahiti, raised and repaired by American enterprise, capital, and labor, to be enrolled and licensed as a vessel of the United States.

The SPEAKER pro tempore. The question is on the third reading of the Senate bill.

The bill was ordered to be read a third time, and was read the third time.

Mr. MOORE of Pennsylvania. Mr. Speaker, I would like to know from some member of the Committee on the Merchant Marine and Fisheries as to the extent of the repairs to this vessel.

Mr. EDMONDS. Mr. Speaker, I am not upon that committee, and I do not remember exactly, but I think the amount in most of these cases has been from 50 per cent to 75 per cent.

Mr. MOORE of Pennsylvania. Is it provided in the bill that the repairs were made by American workmen?

Mr. HAYES. Yes; it is stated.

The SPEAKER pro tempore. The question is on the passage of the bill.

The bill was passed.

## SUNDRY BUILDING AND LOAN ASSOCIATIONS.

Mr. MILLER of Delaware. Mr. Speaker, we have only about two minutes left. There is a bill on the calendar, Calendar No. 325, S. 5672, for the relief of sundry building and loan associations, in which a number of Members are interested.

Mr. MANN. I think it is too late to get that up to-night. The gentleman would not have time to read it, and we will have to have another night.

Mr. MILLER of Delaware. Very well, I shall not make any request in respect to it.

Mr. STEPHENS of Mississippi. Mr. Speaker, I move to reconsider the vote by which these several bills were passed and lay that motion on the table.

The SPEAKER pro tempore. Without objection, it will be so ordered.

There was no objection.

## ADJOURNMENT.

The SPEAKER pro tempore. The hour of 10.30 p. m. has arrived.

Mr. RAINEY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; and accordingly (at 10 o'clock and 30 minutes p. m.) the House adjourned, under its previous order, until to-morrow, Thursday, February 8, 1917, at 11 o'clock a. m.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of the Treasury, transmitting copy of a communication from the Secretary of the Navy submitting supplemental estimates of appropriation required for the naval service for the fiscal year ending June 30, 1918 (H. Doc. No. 2034); to the Committee on Naval Affairs and ordered to be printed.

2. A letter from the Secretary of War, transmitting a report submitted by the Quartermaster General of the Army of all receipts and expenditures of contingent funds collected under the terms of said act from nonmilitary residents of Fort Monroe, Va., for the fiscal year ended June 30, 1916 (H. Doc. No. 2035); to the Committee on Expenditures in the War Department and ordered to be printed.

3. A letter from the Secretary of the Treasury, transmitting copy of a communication from the Secretary of the Navy submitting a supplemental estimate of appropriation in the sum of \$400,000 required for the naval service for the fiscal year end-

ing June 30, 1918 (H. Doc. No. 2036); to the Committee on Naval Affairs and ordered to be printed.

4. A letter from the Comptroller of the Currency, transmitting the annual report of the Comptroller of the Currency for the 12 months ending October 31, 1916, together with certain additional data relating to national banks and their operations brought down to a still later period (H. Doc. No. 1496); to the Committee on Banking and Currency and ordered to be printed.

5. A letter from the Secretary of the Treasury, submitting, for inclusion in the sundry civil bill, certain additional estimates for public buildings (H. Doc. No. 2037); to the Committee on Appropriations and ordered to be printed.

6. A letter from the chairman of the public utilities commission, transmitting the balance sheets for the year ended December 31, 1916, and other information required by the public utilities commission of the various utilities under its jurisdiction (H. Doc. No. 2038); to the Committee on the District of Columbia and ordered to be printed.

7. A letter from the Secretary of the Treasury transmitting copy of a communication from the Attorney General, submitting additional estimates of deficiencies in appropriations for the fiscal year 1917 (H. Doc. No. 2039); to the Committee on Appropriations and ordered to be printed.

8. A letter from the Secretary of the Treasury transmitting a communication from the Secretary of War, submitting a list of claims for damages by river and harbor work, which have been adjusted and settled by the Chief of Engineers and approved by the Secretary of War (H. Doc. No. 2040); to the Committee on Appropriations and ordered to be printed.

9. A letter from the Secretary of the Treasury transmitting copy of a communication from the Secretary of State, submitting estimates of appropriations required by the Department of State (H. Doc. No. 2041); to the Committee on Appropriations and ordered to be printed.

## REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. TILSON, from the Committee on Military Affairs, to which was referred the bill (H. R. 10220) for the relief of John C. Shay, reported the same with amendment, accompanied by a report (No. 1439), which said bill and report were referred to the Private Calendar.

## PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. SHALLENBERGER: A bill (H. R. 20798) authorizing the Secretary of War to donate to the city of Hastings, Nebr., four bronze cannon or fieldpieces; to the Committee on Military Affairs.

By Mr. TIMBERLAKE: A bill (H. R. 20799) to provide revenue for the Government and promote the production of tungsten ores and manufactures thereof in the United States; to the Committee on Ways and Means.

By Mr. ALEXANDER: A bill (H. R. 20800) to amend an act entitled "An act to establish a United States Shipping Board for the purpose of encouraging, developing, and creating a naval auxiliary and Naval Reserve and a merchant marine to meet the requirements of the commerce of the United States with its Territories and possessions and with foreign countries; to regulate carriers by water engaged in the foreign and interstate commerce of the United States; and for other purposes," approved September 7, 1916; and for other purposes; to the Committee on the Merchant Marine and Fisheries.

By Mr. GRIFFIN: A bill (H. R. 20801) providing that all persons employed by the United States Government or by the District of Columbia shall be citizens of the United States; to the Committee on Reform in the Civil Service.

By Mr. MCKINLEY: A bill (H. R. 20802) providing for the organization, establishment, and management of schools or institutes of instruction at certain military posts under the direction and supervision of the Secretary of War, with the advice and counsel of the Commissioner of Education of the Department of the Interior, for the purpose of affording the soldiers of the Army an opportunity for securing an education in academic and practical vocational and industrial lines, and to make an appropriation for meeting the necessary expenses of the preliminary survey for the intelligent establishment of said proposed schools or institutes; to the Committee on Military Affairs.

By Mr. WEBB: A bill (H. R. 20803) to define and punish espionage; to the Committee on the Judiciary.



By Mr. GLASS: Resolution (H. Res. 486) for the consideration of House bill 20661; to the Committee on Rules.

Mr. FERRIS: Resolution (H. Res. 487) authorizing the printing as a House document of Infantry Drill Regulations and Field Service Regulations; to the Committee on Printing.

By Mr. HADLEY: Memorial of the Legislature of the State of Washington, favoring the passage of House bill 9805, to create the Mount Baker National Park; to the Committee on the Public Lands.

Also, memorial of the Legislature of the State of Washington, favoring the submission to the States for ratification of the amendment now pending granting to the women of the United States the elective franchise; to the Committee on the Judiciary.

By Mr. NORTON: Memorial from the Legislature of North Dakota, favoring the distribution of seeds through each State's experiment station; to the Committee on Agriculture.

By Mr. SLOAN: Memorial from the Legislature of the State of Nebraska, favoring the amendment to revenue law requiring collectors of internal revenue to furnish lists to governors of each State of all parties paying the internal-revenue tax; to the Committee on Ways and Means.

#### PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. CARAWAY: A bill (H. R. 20804) to authorize the appointment and commission of Frank W. Gee as chaplain in the Regular Army of the United States; to the Committee on Military Affairs.

By Mr. DARROW: A bill (H. R. 20805) granting a pension to Andrew Heuser; to the Committee on Pensions.

By Mr. HAUGEN: A bill (H. R. 20806) granting an increase of pension to John G. Wright; to the Committee on Invalid Pensions.

Also, a bill (H. R. 20807) granting an increase of pension to D. W. Farington; to the Committee on Invalid Pensions.

By Mr. HUSTED: A bill (H. R. 20808) for the relief of the dependent mother (now Sophie Caffery) of Henry W. Sloat, civilian employee of the Government, who was killed while in the discharge of his duties at the United States naval magazine at Iona Island, N. Y.; to the Committee on Claims.

By Mr. JACOWAY: A bill (H. R. 20809) for the relief of R. W. Harris; to the Committee on Military Affairs.

By Mr. KEARNS: A bill (H. R. 20810) granting an increase of pension to Stephen Young; to the Committee on Invalid Pensions.

Also, a bill (H. R. 20811) for the relief of Walter D. Grierson; to the Committee on Military Affairs.

By Mr. McKELLAR: A bill (H. R. 20812) granting a pension to Catharine N. Wilson; to the Committee on Invalid Pensions.

By Mr. NEELY: A bill (H. R. 20813) granting an increase of pension to Jeremiah Bogard; to the Committee on Invalid Pensions.

Also, a bill (H. R. 20814) granting an increase of pension to Asbery Mayfield; to the Committee on Invalid Pensions.

Also, a bill (H. R. 20815) granting an increase of pension to John R. Bungard; to the Committee on Invalid Pensions.

Also, a bill (H. R. 20816) granting an increase of pension to Sidney Merifield; to the Committee on Invalid Pensions.

By Mr. PLATT: A bill (H. R. 20817) for the relief of William H. Miller; to the Committee on Claims.

By Mr. REAVIS: A bill (H. R. 20818) granting an increase of pension to Andrew G. Kramer; to the Committee on Invalid Pensions.

By Mr. RODENBERG: A bill (H. R. 20819) granting a pension to Jacob Herpin; to the Committee on Pensions.

By Mr. SHALLENBERGER: A bill (H. R. 20820) granting an increase of pension to Joseph S. Le Hew; to the Committee on Invalid Pensions.

Also, a bill (H. R. 20821) granting a pension to Frances A. Brown; to the Committee on Invalid Pensions.

Also, a bill (H. R. 20822) granting a pension to Harriett L. Carr; to the Committee on Invalid Pensions.

Also, a bill (H. R. 20823) for the relief of J. H. Tower; to the Committee on Claims.

By Mr. SLEMP: A bill (H. R. 20824) granting a pension to Clearance A. Yancy; to the Committee on Pensions.

By Mr. VAN DYKE: A bill (H. R. 20825) granting a pension to W. H. Johnston; to the Committee on Invalid Pensions.

By Mr. BROWNE: A bill (H. R. 20826) granting a pension to James Warren; to the Committee on Invalid Pensions.

#### PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER (by request): Memorial of employees of the Post Office Department, favoring passage of House bill 17806, relative to increase in salaries; to the Committee on the Post Office and Post Roads.

Also (by request), petition of memorial and executive committee of United Spanish War Veterans relative to establishing system of universal training and service; to the Committee on Military Affairs.

Also (by request), memorial of Bucyrus (Ohio) Chamber of Commerce against abolition of the pneumatic mail-tube service; to the Committee on the Post Office and Post Roads.

By Mr. BENNET: Petition of O. L. Hull and others for prohibition; to the Committee on the Judiciary.

Also, petition of John Haussler and others against prohibition; to the Committee on the Judiciary.

By Mr. BRUCKNER: Petition of John H. Leich & Co., of New York, against House bill 19350; to the Committee on the Merchant Marine and Fisheries.

Also, petition of Retail Liquor Dealers' Association, Bronx County, N. Y., favoring the revenue bill; to the Committee on Ways and Means.

Also, telegrams from the Columbia Mills Co., Messrs. Bloch & Schiller, Messrs. Charles Champan's Sons, the Clover Hat Co., the Eastern Millinery Co., Charles Goldstein, Messrs. Halper & Friedman, Messrs. Schiff Bros., J. P. Shanley, and Messrs. Weiss & Klau Co., all of New York City, protesting against House bill 19350; to the Committee on the Merchant Marine and Fisheries.

Also, petition of Fifth Avenue Association, New York, William W. Hopper, secretary, indorsing the Webb bill; to the Committee on the Judiciary.

Also, petition of Ascension Baptist Church, F. W. Hagar, pastor, favoring the pensioning of letter carriers; to the Committee on the Post Office and Post Roads.

Also, petition of Charles Davison, 60 Wall Street, New York, favoring the protection of migratory birds; to the Committee on Agriculture.

By Mr. CARY: Petitions of sundry citizens of Milwaukee, Wis., protesting against war with Germany; to the Committee on Foreign Affairs.

By Mr. CHARLES: Petition of Board of Trade of Amsterdam, N. Y., against passage of the so-called excess-revenue bill; to the Committee on Ways and Means.

By Mr. DALE of New York: Petition of H. Griswold, of New York City, against passage of Senate bills 7563 and 7746, relative to second lieutenants in the Regular Army; to the Committee on Military Affairs.

By Mr. FULLER: Petition of New York Churchman's Association, protesting against the deportation of Belgians by the German Government; to the Committee on Foreign Affairs.

Also, petition of National Educators' Conservation Society, protesting against enactment of the water-power bills; to the Committee on Interstate and Foreign Commerce.

Also, petition of Illinois State Federation of Labor, for the Casey bill, to establish a woman's division in the Department of Labor; to the Committee on Labor.

Also, petition of J. E. Waldo and Edith P. Sovereign, both of Rockford, Ill., favoring the migratory-bird treaty bill (H. R. 20080); to the Committee on Foreign Affairs.

By Mr. GALLIVAN: Petition of sundry members of the Massachusetts Branch of the League to Enforce Peace, favoring adoption by the United States of the league's proposals; to the Committee on Foreign Affairs.

Also, petition of sundry citizens of Boston, Mass., against prohibitory legislation; to the Committee on the Judiciary.

By Mr. HOLLINGSWORTH: Memorial of Local Union No. 2159, United Mine Workers of America, of Blaine, Ohio, favoring commission to investigate supply of food products in the United States, and provide legislation to prevent shipment of same out of the country, in the interest of home consumers and lower cost of living; to the Committee on Interstate and Foreign Commerce.

By Mr. KETTNER: Petition of John Fleming, ex-secretary Federation of Churches, San Diego, Cal., favoring Kenyon-Sims bill; to the Committee on the Judiciary.

Also, petition of L. M. Arey and Jacob Beckel, secretary Trades Union Liberty League, both of San Diego, Cal., protesting against passage of House bill 18986 and Senate bill 4429, mail-exclusion bills; to the Committee on the Post Office and Post Roads.



Also, petition of Earl V. Van Luven, instructed by official board of Jewell Memorial Methodist Episcopal Church, Colton, Cal., favoring House bill 18986; to the Committee on the Post Office and Post Roads.

Also, petition of Glenn R. Williams, mailing clerk, Upland, Cal., favoring House bill 17806, the Madden reclassification bill; to the Committee on the Post Office and Post Roads.

Also, petition of John S. Roberts and 23 other letter carriers and clerks, favoring increase of salaries for railway mail clerks, post-office clerks, letter carriers, and rural delivery carriers; to the Committee on the Post Office and Post Roads.

Also, petition of J. S. Reese, C. E. Doughty, and A. H. McFarland, all of Needles, Cal., protesting against House bill 19730, the Adamson bill; to the Committee on Immigration and Naturalization.

Also, petition of A. M. S. Wright, secretary Alpine Booster Club, Alpine, Cal., favoring appropriation of \$300,000 for Yosemite Park, enlargement of Sequoia National Park, and creation of Grand Canyon National Park; to the Committee on the Public Lands.

Also, petition of B. E. Tarver, Santa Ana, Cal., protesting against passage of Federal emergency revenue measure in present form; to the Committee on Ways and Means.

Also, petition of Homer W. Sumption, executive secretary chamber of commerce, San Diego, Cal., favoring Borland daylight saving bill; to the Committee on Labor.

Also, petition of Norman S. Dayton, Palm Springs, and R. R. Adams, San Diego, Cal., protesting against postal rates on second-class matter according to zone system; to the Committee on the Post Office and Post Roads.

Also, petition of W. R. Robers, president, and R. H. Gunnis, secretary, San Diego Clearing House Association, and F. J. Belcher, jr., First National Bank, San Diego, Cal., favoring House bill 17606, the Kitchin bill; to the Committee on Banking and Currency.

Also, petition of Grant M. Webster, secretary pro tempore San Diego County Single Tax Society, San Diego, Cal., protesting against Senate bill 3331 and House bill 408; to the Committee on Interstate and Foreign Commerce.

Also, petition of F. H. Donald, San Marcos, Cal., favoring safety-first bill; to the Committee on Interstate and Foreign Commerce.

By Mr. MEEKER: Petition of St. Andrew's German Evangelical Church, of St. Louis, Mo., in favor of supporting the President in his efforts to bring about peace among the belligerents abroad; to the Committee on Foreign Affairs.

By Mr. NORTON: Petition of Jacob Rothschilder, president German Alliance of Gladstone, N. Dak., asking Congress to submit question of declaring war against Germany to vote of people of United States; to the Committee on Foreign Affairs.

By Mr. OAKLEY: Memorial of sundry citizens of Hartford, Conn., favoring woman-suffrage amendment; to the Committee on the Judiciary.

By Mr. RAKER: Memorial of San Diego (Cal.) Bar Association, urging increase in salaries of United States circuit and district judges; to the Committee on Expenditures in the Department of Justice.

By Mr. ROWE: Memorial of Association of Fully Disabled Union Veterans of the Civil War, favoring passage of House bill 14428, to grant increased pensions to those who lost limbs during Civil War; to the Committee on Pensions.

Also, petition of Charles H. Dillon, of Brooklyn, N. Y., favoring passage of House bill 17806; to the Committee on the Post Office and Post Roads.

Also, petition of the George H. Gibson Co., of New York City, relative to equalization in the present postage rates for first and second class matter; to the Committee on the Post Office and Post Roads.

Also, petition of Charles S. Davison, of New York City, favoring passage of House bill 20080, migratory-bird treaty act; to the Committee on Foreign Affairs.

By Mr. SANFORD: Petition of citizens of Albany County, N. Y., for submission to the States of a national prohibition amendment; to the Committee on the Judiciary.

By Mr. SMITH of Idaho: Petition of First Methodist Church of the city of Pueblo, Colo., favoring prohibitory liquor legislation; to the Committee on Alcoholic Liquor Traffic.

Also, petition of Woman's Christian Temperance Union of West Pittston, Pa., favoring the national prohibition amendment; to the Committee on the Judiciary.

By Mr. SNYDER: Petition of sundry citizens of the thirty-third New York district, favoring prohibition for the District of Columbia; to the Committee on the District of Columbia.

Also, petition of sundry citizens of the thirty-third New York district, against passage of the excise-revenue bill; to the Committee on Ways and Means.

By Mr. STEPHENS: Petition of employees of the Post Office Department, favoring passage of House bill 17806, relative to salaries; to the Committee on the Post Office and Post Roads.

By Mr. TEMPLE: Petition of Pigeon Creek U. P., Eightyfour, Pa., urging adoption of a resolution to amend the Federal Constitution, providing that polygamy and polygamous cohabitation shall not exist within the United States or any place subject to its jurisdiction; to the Committee on the Judiciary.

By Mr. TINKHAM: Memorial of employees of the Post Office Department, favoring passage of House bill 17806, to increase salaries; to the Committee on the Post Office and Post Roads.

## SENATE.

THURSDAY, February 8, 1917.

The Senate met at 11 o'clock a. m.

Bishop Collins Denny, of Richmond, Va., offered the following prayer:

O thou great and glorious and merciful God, we come to acknowledge our dependence upon Thee for all things. While we can not remember all Thy benefits, be so favorable to us, O God, that we may not forget them all. We praise Thee for Thy guidance of our fathers; and now, Lord, we, who are Thy children as well as their children, come to pray Thee that Thy guidance may not depart from us. Especially at this time, O gracious God, give wisdom to those upon whom in Thy providence the guidance of the affairs of this country has fallen.

Upon this Senate, upon the President and all who are in authority grant us, most merciful God, that heretofore having been for so many years kept in the peace which has been Thy gift to us, we may be continued in peace in this country. Keep far off from our homes, from our loved ones, war and all its consequences; and while we know, for Thou hast taught us, that whatsoever a man soweth that shall he also reap, and while our sins have been many, manifold, and heinous, gracious God, visit not on us the legitimate consequences of our own transgressions, but show Thyself merciful to us, and grant us the safe and the honorable way through all the troubles to which we seem to be exposed; and especially grant to Thy servants here that daily blessing which they need to do Thy will. We ask for Jesus' sake. Amen.

### CALLING OF THE ROLL.

Mr. SMOOT. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The Secretary called the roll and the following Senators answered to their names:

Bankhead	Hughes	Martine, N. J.	Smith, Md.
Beckham	Husting	Myers	Smith, Mich.
Brady	James	Norris	Smith, S. C.
Bryan	Johnson, S. Dak.	Oliver	Smoot
Chamberlain	Jones	Page	Sterling
Chilton	Kenyon	Pittman	Stone
Clapp	Kirby	Poincxter	Thomas
Coff	La Follette	Ransdell	Thompson
Curtis	Lane	Reed	Tillman
Fernald	Lea, Tenn.	Robinson	Townsend
Fletcher	Lee, Md.	Saulsbury	Vardaman
Gallinger	Lodge	Shafroth	Wadsworth
Gronna	McCumber	Sheppard	Watson
Harding	McLean	Sherman	Weeks
Hitchcock	Martin, Va.	Smith, Ga.	Williams

Mr. JAMES. I wish to announce that the Senator from North Carolina [Mr. SIMMONS] is absent on official business.

Mr. CHILTON. I desire to announce that the Senator from Texas [Mr. CULBERSON], the Senator from North Carolina [Mr. OVERMAN], the Senator from Tennessee [Mr. SHIELDS], the Senator from Montana [Mr. WALSH], the Senator from Minnesota [Mr. NELSON], the Senator from Connecticut [Mr. BRANDEGEE], and the Senator from California [Mr. WORKS] are absent on official business.

The VICE PRESIDENT. Sixty Senators have answered to the roll call. There is a quorum present. The Secretary will read the Journal of the proceedings of the preceding day.

### VOTE UPON RESOLUTION RELATIVE TO RELATIONS WITH GERMANY.

Mr. LANE. Mr. President, before I go upon committee work I wish to say that I was not recorded yesterday upon the vote on the resolution of the Senator from Missouri [Mr. STONE], and I wish to announce that I would have voted "nay" had I been